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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

This Document Relates to:

Jaylynn Dean v. Uber Techs., Inc.,
No. 23-cv-06708

Case No. 3:23-MD-03084-CRB

DEFENDANTS UBER TECHNOLOGIES,
INC., RASIER, LLC, AND RASIER-CA,
LLC'S REPLY IN SUPPORT OF ITS
MOTIONS TO EXCLUDE EXPERT
TESTIMONY

Judge: Hon. Charles R. Breyer
Courtroom: 6 – 17th Floor

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3 **Other Authorities**

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MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

Plaintiff's opposition brief mischaracterizes Uber's arguments as "nitpicking" that is better suited for cross-examination. Opp'n at 1-2. In truth, however, Uber's motions challenge threshold issues of admissibility, including Plaintiff's experts' qualifications; their failure to ground their highly speculative opinions in any discernible (much less a reliable) methodology; and their improper attempt to usurp the role of jurors. These are threshold issues that require exclusion of the challenged opinions (as Judge Schulman largely recognized in his *Sargon* ruling).

To the extent Plaintiff addresses the substance of Uber's arguments, her responses fail.

First, Plaintiff insists that all of her experts satisfy what she repeatedly claims is a “minimal” standard of qualifications. But the burden is on Plaintiff to demonstrate, by a preponderance of the evidence, that her experts have the requisite knowledge or experience to offer their proffered opinions. And Plaintiff’s position—essentially, that *any* knowledge or experience (no matter how generalized and divorced from the particulars of her experts’ opinions) suffices—misunderstands the relevant legal standard.

Second, Plaintiff repeatedly dismisses Uber’s reliability challenges as matters of weight that can be sorted out by jurors during cross-examination at trial. But that is not correct. Uber’s challenges concern fundamental methodological defects, such as Dr. Drumwright’s and Dr. Valliere’s speculation about the effects of Uber’s marketing; Dr. Chandler’s unfounded statistical extrapolation from a single, inapposite article; and Mr. Feldis’s haphazard research in opining on the feasibility of dashcams. These challenges raise “critical questions of the sufficiency” of the expert’s basis for his or her opinion and must be resolved by the Court, which “cannot abdicate its role as gatekeeper,” nor ‘delegate[] that role to the jury.’” *Engilis v. Monsanto Co.*, 151 F.4th 1040, 1049-50 (9th Cir. 2025) (noting that “[b]efore the [2023] amendment, ‘many courts’ had erroneously held ‘that the critical questions of the sufficiency of an expert’s basis, and the application of the expert’s methodology, are questions of weight and not admissibility’”) (citing Fed. R. Evid. 702 advisory committee’s note to 2023 amendment); *see also Bulone v. Monsanto Co.*, No. 24-4241, 2025 U.S. App. LEXIS 24840, at *4-5 (amendment).

1 (9th Cir. Sept. 25, 2025) (rejecting plaintiff’s argument that the “district court improperly assumed a
 2 factfinding role in the *Daubert* proceeding” by finding expert’s reliance on inapposite studies to be
 3 unreliable, which “centered . . . on the *methods* [the expert] employed and her *application* of those
 4 methods, just as Federal Rule of Evidence 702 contemplates”).

5 **Third**, Plaintiff does not seriously attempt to refute Uber’s various other challenges, including,
 6 for example, that many of Plaintiff’s experts inappropriately regurgitate internal company documents
 7 that are well within the comprehension of any lay juror, or seek to tell jurors what Uber knew or
 8 intended based on those very documents. Instead, the gist of Plaintiff’s response is that the Court
 9 should just deal with these challenges at trial. But there is no reason to defer resolving these arguments,
 10 particularly since they apply to multiple experts, and their resolution will help narrow the issues for
 11 trial and ultimately simplify the parties’ and the Court’s work going forward.

12 In sum, Plaintiff’s opposition brief essentially asks the Court to abdicate its role as gatekeeper
 13 and permit her experts to testify based solely on their own say-so. Such a loose approach to Rule 702
 14 was never the law—which is precisely what the recent amendments to Rule 702 were designed to
 15 clarify. *See In re Valsartan, Losartan, & Irbesartan Prods. Liab. Litig.*, No. 1:20-cv-00946
 16 (RMB/SAK), 2025 U.S. Dist. LEXIS 221602, at *2-3 (D.N.J. Nov. 10, 2025) (“This Court cannot do
 17 that – essentially taking the expert’s word for it – without abandoning its gatekeeping responsibility.”)
 18 (citing Fed. R. Evid. 702, Advisory Committee’s note to 2000 amendments and Fed. R. Evid. 702,
 19 Advisory Committee’s note to 2023 amendments”).

20 **I. DR. DRUMWRIGHT’S OPINIONS SHOULD BE EXCLUDED.**

21 In recent months, two California courts have excluded Dr. Drumwright for many of the same
 22 reasons why her opinions should be excluded here. Plaintiff’s attempt to overcome the logic
 23 underlying those rulings fails.

24 **A. Dr. Drumwright’s Marketing Opinions Are Inadmissible.**

25 As set forth in Uber’s opening brief, Dr. Drumwright’s opinions about the supposed purpose
 26 and effect of Uber’s marketing practices should be excluded because they are irrelevant and based
 27 entirely on speculation. Mot. at 3. Plaintiff’s opposition fails to demonstrate otherwise.

1 *First*, as Judge Schulman explained in excluding substantively similar marketing opinions, Dr.
 2 Drumwright should not be permitted to “testify that any given Plaintiff relied on a specific
 3 advertisement or marketing practice, or speculate that she reasonably could have done so, in choosing
 4 to utilize Uber’s platform.” JCCP Order at 39 (Dkt. 4470-25). Plaintiff contends that the JCCP court’s
 5 decision was “wrong” and that Dr. Drumwright’s far-flung marketing opinions are “relevant to all
 6 cases, including” individual plaintiffs like Ms. Dean. Opp’n at 5, 7. Plaintiff then lists broad ways in
 7 which she believes “Dr. Drumwright’s analysis of Uber’s marketing helps the jury,” including
 8 determining the general standard of care and “show[ing] the jury how the company was negligent.”
 9 *Id.* at 5-6. But, as the JCCP Court already acknowledged, ““this is not a broad-based class or other
 10 challenge to Uber’s overall marketing and advertising practices.” JCCP Order at 39.¹ Rather, this is a
 11 case about one individual plaintiff—Ms. Dean—and whether Uber is liable ***with respect to Ms. Dean.***
 12 And because Plaintiff has not identified any evidence tying Dr. Drumwright’s marketing opinions to
 13 Ms. Dean, Opp’n at 9, her marketing opinions are irrelevant.

14 *Second*, Dr. Drumwright’s marketing opinions about the supposed effect of Uber’s marketing
 15 practices on the general public are separately inadmissible because they are not based on any objective
 16 evidence (such as a consumer perception survey or even interviews of riders or drivers who use the
 17 Uber platform). Mot. at 4-5. In response, Plaintiff argues that Dr. Drumwright’s reliance on her own
 18 general marketing experience, “the marketing itself” and “also internal documents” is sufficient.
 19 Opp’n at 8. In so arguing, Plaintiff relies on outdated (i.e., pre-Rule 702 amendment) cases holding
 20 that experts’ reliance on “past experiences” for their “opinions regarding the purpose and impact of
 21 [the defendant’s] marketing efforts” goes “to the weight of these experts’ opinions and not their
 22 exclusion.” *In re Juul Labs, Inc. Mktg., Sales Pracs. & Prods. Liab. Litig.*, No. 19-md-02913-WHO,
 23 2022 WL 1814440, at *4 (N.D. Cal. June 2, 2022) (cited in Opp’n at 8); *In re DePuy Orthopaedics,*
 24 *Inc.*, No. 3:11-MD-2244-K, 2016 WL 6271474, at *5 (N.D. Tex. Jan. 5, 2016) (cited in Opp’n at 8)

25
 26 ¹ Plaintiff also attempts to distinguish the JCCP ruling on the ground that “several of the Wave 1
 27 bellwethers involve claims not litigated in the JCCP.” Opp’n at 7. But Plaintiff fails to explain how
 Dr. Drumwright’s general marketing opinions not tethered to any individual plaintiff would be
 relevant for those claims, either.

1 (“[a]ny contention . . . as to the accuracy of Dr. Drumwright’s [marketing] conclusions is more
 2 appropriately an attack made on the weight of the testimony at trial rather than its admissibility”). But
 3 as the Ninth Circuit has recently made clear, pursuant to amended Rule 702, it is “erroneous” to hold
 4 that “the sufficiency of an expert’s basis” is a “question[] of weight and not admissibility”; rather,
 5 when “[p]roperly applied, Rule 702 requires that challenges to an expert’s opinion go to the weight of
 6 the evidence only if a court first finds it more likely than not that an expert has a sufficient basis to
 7 support an opinion.” *Engilis*, 151 F.4th at 1049. Here, Dr. Drumwright’s wholesale failure to base her
 8 opinions on *any* empirical evidence about the supposed purpose and effect of Uber’s marketing means
 9 that those opinions are nothing more than the expert’s own say-so, which clearly does not suffice under
 10 recently amended Rule 702.

11 Plaintiff’s argument that Dr. Drumwright reviewed Uber’s marketing materials and internal
 12 documents cannot salvage her opinion either because “the jury is in as good a position as the expert to
 13 draw conclusions from the evidence[.]” *Siqueiros v. Gen. Motors LLC*, No. 16-cv-07244-EMC, 2022
 14 WL 74182, at *9 (N.D. Cal. Jan. 7, 2022). Consistent with this standard, as Uber explained in its
 15 opening brief, mere reliance on “third-party market research reports and [a defendant]’s own internal
 16 documents” is not a sufficiently reliable methodology to opine on “the impact of marketing on
 17 consumer behavior.” *Johns v. Bayer Corp.*, No. 09CV1935 AJB (DHB), 2013 WL 1498965, at *27-
 18 28 (S.D. Cal. Apr. 10, 2013) (cited in Mot. at 5). While Plaintiff claims that *Johns* “said no such thing,”
 19 Opp’n at 9, the court there clearly excluded an expert’s marketing opinion that was “nothing more
 20 than a synopsis of Bayer’s marketing . . . quoting extensively from both third-party market research
 21 reports and Bayer’s own internal documents.” *Id.* at *28. Dr. Drumwright’s marketing opinions fail
 22 for the same reasons.

23 **B. Dr. Drumwright’s Ethics Opinions Are Inadmissible.**

24 Dr. Drumwright’s extensive commentary on Uber’s ethics is also inadmissible for a variety of
 25 reasons. *See* Mot. at 5-9.

26 *First*, as the JCCP court previously held in excluding Dr. Drumwright’s substantively identical
 27 ethics opinions, Dr. Drumwright’s opinions are “based in large part on the ‘professional norms and

1 standards' of numerous organizations," and "if Uber had a duty to warn [] of the risks of sexual assault
 2 on its platform, that duty would not stem from the standards of marketing and advertising
 3 associations." JCCP Order at 39-40. Earlier this month, another court agreed with the JCCP court
 4 ruling and excluded Dr. "Drumwright's opinion that Defendants['] 'actions were inconsistent with
 5 industry standards for corporate responsibility'" on the basis that "the industry standards cited by [Dr.]
 6 Drumwright do not 'apply to Defendants, who are not members of the organizations that sponsor
 7 them.'" *Social Media Cases*, JCCP5255, at 1-3 (Dec. 3, 2025) (Ex. 1). The *Social Media* court further
 8 noted that Dr. Drumwright's ethics opinions are not "relevant" because "the standards of corporate
 9 responsibility that [Dr.] Drumwright invokes do not set up a standard of care for the [Defendant]
 10 companies' interactions." *Id.* at 3; *see also id.* at 5 ("Any relevance of expert testimony regarding
 11 'industry standards' is limited, given that a jury is capable of assessing the alleged failure to warn
 12 based on the underlying facts of this case."). These rulings apply with equal force here.

13 Plaintiff nonetheless argues that Dr. Drumwright's discussion of ethics standards that are
 14 inapplicable to Uber² is still relevant because these ethical standards "inform the jury's evaluation of
 15 the standard of care in marketing and public relations." Opp'n at 10. Plaintiff misses the point. Because
 16 the ethics standards do not apply to Uber or govern Uber's actions, such standards do not set the
 17 appropriate "standard of care in marketing" **for Uber** (to the extent such a thing even exists). Plaintiff's
 18 own cited case recognizes as much, holding that ethical standard opinions are only "helpful to a jury
 19 when ethical obligations **are of consequence to the issues to be decided by the jury**, such as an
 20 attorney's ethical obligations in a breach of fiduciary duty claim or a physician's standard of care in
 21 claims of negligence." *In re DePuy Orthopaedics, Inc.*, 2016 WL 6271474, at *5 (holding that Dr.
 22 Drumwright's ethics testimony was relevant to a physician's "standard of care"). No such universal
 23 standard of care for marketing is applicable here. JCCP Order at 39-40.³

24

25 ² Dr. Drumwright acknowledged at her deposition that the ethics codes and standards she cites in her
 26 report are not specific to Uber, *see, e.g.*, Drumwright Dep. 154:11-25 (Dkt. 4351-1, Ex. 2), and they
 27 do not govern Uber's actions, *e.g.*, *id.* 167:3-11; *id.* 167:23-25.

28 ³ Plaintiff also cites cases holding that references to inapplicable ethical standards are a matter for
 29 cross-examination, not exclusion. *See* Opp'n at 11. As set forth above, that approach is "erroneous"
 30 and amended Rule 702 now requires exclusion. *Engilis*, 151 F.4th at 1049; *see also Bulone*, 2025 U.S.
 31 App. LEXIS 24840, at *4-5 (affirming exclusion of expert causation evidence; an expert who relies
 32

1 Plaintiff also claims that Uber’s “argument has no application to Dr. Drumwright’s extensive
 2 analysis of Uber’s own internal codes and standards, as even the JCCP recognized.” Opp’n at 10. But
 3 Plaintiff is distorting a portion of the JCCP court’s ruling. What Judge Schulman said was that Dr.
 4 Drumwright’s opinion that Uber violated its own corporate ethics statements was “a more appropriate
 5 subject for expert testimony,” but **only** if Dr. Drumwright “refrain[ed] from offering improper opinions
 6 regarding Uber’s state of mind.” JCCP Order at 41. As set forth below, Dr. Drumwright does not.

7 The JCCP court also recognized that “Dr. Drumwright’s opinions regarding Uber’s alleged use
 8 of its “soft power to ‘kill’ and ‘squash and fog’ media stories that would negatively impact public
 9 perceptions of Uber’s safety are irrelevant[.]” *Id.* In response, and in direct conflict with the JCCP
 10 court’s ruling, Plaintiff asserts only that “[t]his conduct is relevant.” Opp’n at 11. But Plaintiff does
 11 not—and cannot—explain how any speculative allegations of Uber’s use of “soft power” have
 12 anything to do with Ms. Dean’s case.

13 **Second**, Dr. Drumwright’s report regurgitates cherry-picked statements from Uber related to
 14 so-called ethical obligations that are better presented through documents or fact witnesses. Mot. at 7
 15 (collecting cases). In response, Plaintiff argues that Dr. Drumwright “does not do so,” but rather
 16 “applies those standards to form her opinions about the propriety of Uber’s conduct.” Opp’n at 12.
 17 This claim ignores that Dr. Drumwright’s report contains **16 pages** of pasted statements from Uber
 18 documents and employees, including corporate values statements, passages from Uber’s “codes of
 19 conduct,” employee handbooks and community guidelines, with absolutely zero expert analysis.
 20 Drumwright Rep. at 45-61 (Dkt. 4351-1, Ex. 2). Plaintiff alternatively argues that any objections to
 21 improper narrative testimony “are better made at trial.” Opp’n at 12 (citation omitted). But even
 22 Plaintiff’s cited case on that point recognizes that “an expert may not ‘merely read, selectively quote
 23 from, or regurgitate the evidence,’” *Homyk v. ChemoCentryx, Inc.*, No. 21-CV-03343-JST, 2025 WL
 24 1547625, at *6 (N.D. Cal. May 30, 2025) (cited in Opp’n at 12-13), and because Dr. Drumwright’s
 25 report previews that she will do just that, the Court should preclude her from doing so **in advance of**

26
 27 on studies that suffer from “flaws and limitations . . . undermine[s] the reliability” of the opinions and
 28 is not a matter of simply “doubt[ing] [the expert’s] ‘credibility[]’” (citation omitted).

1 *trial.* See *In re Trasylol Prods. Liab. Litig.*, 709 F. Supp. 2d 1323, 1337 (S.D. Fla. 2010) (excluding
 2 advocacy-oriented narrative testimony of expert prior to trial and expressly noting that another court
 3 concluded that it “should have struck” the testimony rather than addressing it at trial) (citing *In re
 4 Prempro Prods. Liab. Litig.*, 554 F. Supp. 2d 871, 879-87 (E.D. Ark. 2008) (noting that experience
 5 revealed that allowing narrative testimony is “subject to abuse”), *aff’d in part, rev’d in part*, 586 F.3d
 6 547 (8th Cir. 2009)).

7 **Third,** Dr. Drumwright’s ethics opinions are also speculative. Mot. at 7-8. Plaintiff urges the
 8 Court to find that Dr. Drumwright’s ethics opinions are not speculative because certain other courts
 9 have admitted her ethics opinions in other cases. Opp’n at 13. But as set forth above, the most on-
 10 point case addressing these kinds of opinions is the decision entered in the JCCP barring them. JCCP
 11 Order at 39-40. In any event, Plaintiff’s reliance on other cases cannot compensate for Dr.
 12 Drumwright’s inability to substantiate any of her ethics opinions here. For example, in response to
 13 Uber’s examples where Dr. Drumwright provided absolutely no support for her ethics opinions—e.g.,
 14 she could not cite to any direct communications between Uber and media personnel reflecting Uber’s
 15 supposed use of “dark” public relations, Mot. at 8—Plaintiff points to Dr. Drumwright’s testimony
 16 that “those conversations would have happened orally and not in writing.” Opp’n at 13-14. Even if
 17 true, that fact provides no basis for Dr. Drumwright to simply assume those “dark PR”
 18 communications ever happened, which is “little else than her own say-so[.]” *In re Valsartan*, 2025
 19 U.S. Dist. LEXIS 221602, at *45 (offering “little else than her own say-so” is “[n]ot the product of a
 20 reliable methodology”).

21 **Lastly,** Dr. Drumwright’s opinions are unduly prejudicial, as the JCCP court has already held
 22 in excluding substantively similar ethics opinions. JCCP Order at 39-40. Plaintiff, once again, entirely
 23 ignores this ruling. Plaintiff claims that Dr. Drumwright’s ethics opinions are not prejudicial because
 24 they entail her subjective comparisons of Uber’s conduct to “internal and external standards of
 25 conduct, not mere morality.” Opp’n at 14. But this is a distinction without a difference; Dr.
 26 Drumwright’s subjective conclusion that Uber acted unethically is precisely the sort of morality
 27 accusation that Rule 403 precludes. See Mot. at 8-9 (citing cases); *Social Media Cases*, JCCP5255, at

1 5 (Ex. 1) (excluding Dr. Drumwright’s “industry standard” ethics opinions as prejudicial; “The
 2 testimony would likely confuse the jury by leading jurors to believe that, for example, a Defendant’s
 3 failure to comply with ‘the University of Texas at Austin’s ‘Good Systems’ initiative’ would be
 4 equivalent to a failure to comply with duties imposed by California tort law.”).

5 Plaintiff also suggests—without citation to any supportive authority—that because defense
 6 counsel mentioned Uber’s support of nonprofit organizations and attempts to eradicate sexual assault
 7 at the first JCCP bellwether trial, Dr. Drumwright should be given carte blanche to opine on the ethics
 8 of Uber’s interactions with nonprofit organizations at this trial. Opp’n at 14-15. But Uber has every
 9 right to present facts pertaining to its support of nonprofit organizations. This does not mean Dr.
 10 Drumwright can put an expert spin on those facts to ultimately tell the jury that Uber acted unethically
 11 based on nothing more than her own subjective opinion.

12 **C. Dr. Drumwright’s Failure-To-Warn Opinions Should Be Excluded.**

13 As set forth in Uber’s opening brief, Dr. Drumwright’s failure-to-warn opinions are
 14 inadmissible legal opinions, and in any event, she is not qualified to offer them. Mot. at 9. Plaintiff’s
 15 responses lack merit.

16 **First**, Plaintiff claims that Dr. Drumwright’s opinion is proper because she “is not opining that
 17 Uber is liable on a failure-to-warn theory.” Opp’n at 15. But the JCCP court disagreed, holding that
 18 Dr. Drumwright’s “opinions that Uber had a duty to warn female passengers of the risk of sexual
 19 assault on its platform and that it breached that duty” “amount to [] inadmissible” legal opinion. JCCP
 20 Order at 40-41. Plaintiff does not address this holding.

21 **Second**, Plaintiff concedes that Dr. Drumwright is not a “warnings expert,” but nonetheless
 22 claims that her opinions “on how Uber’s marketing failed to warn” is “within her expertise.” Opp’n at
 23 15. They are not, as the *Social Media* JCCP court recognized in explicitly finding that Dr.
 24 “Drumwright is not an expert on warnings and how they should be given” and thus, “she is not
 25 qualified to address whether any disclosures that Defendants did make were sufficient.” *Social Media*
 26 *Cases*, JCCP5255, at 4. As noted above, Plaintiff, as the proponent of Dr. Drumwright’s testimony,
 27 must meet her “burden of proving” that Dr. Drumwright is qualified by a preponderance of the

1 evidence. *See, e.g., Trivitis, Inc. v. Ocean Spray Cranberries, Inc.*, No. 10CV0316 JM MDD, 2012
 2 WL 1944827, at *4 (S.D. Cal. May 29, 2012) (excluding expert where proponent “fail[ed] to meet its
 3 threshold showing that Mr. Larson is qualified as an expert”); *Engilis*, 151 F.4th at 1049 (“a proponent
 4 of expert testimony must always establish the admissibility requirements of Rule 702 by a
 5 preponderance of the evidence”). Plaintiff’s mere incantation of Dr. Drumwright’s credentials as a
 6 “**marketing**” expert does not suffice to show she has the requisite qualifications to opine on the
 7 completely distinct topic of **warnings**.

8 **D. Dr. Drumwright’s Opinions Regarding Uber’s Knowledge Should Be Excluded.**

9 As set forth in Uber’s opening brief, Dr. Drumwright’s opinions concerning Uber’s supposed
 10 corporate knowledge, motives and intent are inadmissible because “issues related to ‘state of mind are
 11 properly for the trier of fact.’” Mot. at 10 (quoting *Patterson v. Six Flags Theme Parks Inc.*, No. 2:21-
 12 CV-02398-KJM-AC, 2024 WL 2112376, at *3 (E.D. Cal. May 9, 2024)) (citing cases). Courts have
 13 repeatedly excluded Dr. Drumwright’s opinions on this ground as well. JCCP Order at 41 (Judge
 14 Schulman holding that Dr. Drumwright must “refrain from offering improper opinions regarding
 15 Uber’s state of mind (e.g., what it intended or was motivated by”); *King v. DePuy Orthopaedics Inc.*,
 16 No. CV-23-00196-PHX-SMB, 2023 WL 5624710, at *6 (D. Ariz. Aug. 31, 2023) (“[T]he Court finds
 17 that Dr. Drumwright is not permitted to opine on [defendant’s] state of mind by giving opinions on
 18 the company’s supposed knowledge, intent, or motivations.”); *Social Media Cases*, JCCP5255, at 4
 19 (holding that Dr. Drumwright “may not review Defendants’ documents and offer an opinion about
 20 what Defendants knew and/or intended”).

21 Plaintiff fails to address any of these holdings.⁴ Instead, Plaintiff claims that “experts may
 22 testify to what a defendant ‘knew or should have known.’” Opp’n at 16. But the cases cited by Plaintiff
 23 undercut her argument. For example, Plaintiff cites a case that merely held that “what [the defendant]
 24 knew or should have known” regarding wood science was not an improper “**legal** conclusion” and did
 25

26 ⁴ Although Plaintiff ignores the holding in *King* excluding Dr. Drumwright’s state-of-mind opinions,
 27 2023 WL 5624710, at *6, Plaintiff notes that the court allowed another expert to touch on “when
 Defendants had notice of the risks,” but only *after* expressly noting that the expert was not opining on
 Defendants’ “state of mind.” *Id.* at *4.

1 not discuss the propriety of corporate knowledge opinions. *Cover v. Windsor Surry Co.*, No. 14-cv-
 2 05262-WHO, 2017 WL 9837932, at *17 (N.D. Cal. July 24, 2017) (emphasis added) (cited in Opp'n
 3 at 16);⁵ *see also In re Welding Fume Prods. Liab. Litig.*, No. 1:03-CV-17000, 2005 WL 1868046, at
 4 *17 (N.D. Ohio Aug. 8, 2005) (cited in Opp'n at 16) (not addressing propriety of corporate knowledge
 5 opinions). Indeed, another case cited by Plaintiff expressly acknowledges that “experts generally
 6 cannot opine on a defendant’s subjective knowledge or intent.” *McCoy v. DePuy Orthopaedics, Inc.*,
 7 No. 22-CV-2075 JLS (SBC), 2024 WL 1705952, at *17 (S.D. Cal. Apr. 19, 2024) (cited in Opp'n at
 8 16) (permitting expert to opine on “the information available to them” but “not on Defendants’ state
 9 of mind”). In short, none of these cases supports what Dr. Drumwright seeks to do here, which is to
 10 opine on what Uber knew or reasonably should have known.

11 Plaintiff also claims that, in any event, “Dr. Drumwright does not offer free-standing
 12 assessments of the company’s knowledge” but rather “compares Uber’s internal information to its
 13 public statements.” Opp'n at 16. Not so. Dr. Drumwright’s report plainly shows that she is offering
 14 opinions on what Uber supposedly knew. *See* Mot. at 10; *see also, e.g.*, Drumwright Rep. at 86 (Dr.
 15 Drumwright opining about what “Uber executives have known” about background checks). Even if
 16 Plaintiff’s characterization were correct, “the jury is in as good a position as the expert to draw
 17 conclusions from the evidence.” *Siqueiros*, 2022 WL 74182, at *9. Thus, Dr. Drumwright’s so-called
 18 expert “spin” on documents purporting to show Uber’s knowledge is unwarranted. *See Social Media*
 19 *Cases*, JCCP5255, at 4-5 (excluding Dr. “Drumwright’s recounting of what she believes the
 20 underlying facts are” because such topics are “questions for the jury directly—not proper subjects for
 21 expert testimony”).

22 **II. DR. VALLIERE’S OPINIONS SHOULD BE EXCLUDED IN PART.**

23 **A. Several Of Dr. Valliere’s Proposed Opinions Go Far Beyond Her Expertise.**

24 As set forth in Uber’s opening brief, Dr. Valliere’s opinions on marketing and/or branding,

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 26 ⁵ In addition, the *Cover* court permitted the expert to opine on what the defendant “should have known”
 27 due to the expert’s “well-founded” knowledge on the topic and “specific . . . expertise in the field of
 wood science and wood manufacturing.” *Id.* Dr. Drumwright indisputably does not have similar
 28 “specific” experience in the rideshare industry that would allow her to opine on Uber’s knowledge.

1 corporate values, failure to warn and Uber’s safety features extend far beyond Dr. Valliere’s self-
 2 described expertise in sexual assault. Mot. at 2-4. Plaintiff does not dispute that Dr. Valliere has no
 3 expertise on any of these topics, claiming instead that Dr. Valliere is a mere “sexual assault expert”
 4 with “opinions on sexual assault.” Opp’n at 19. This grossly understates the breadth of Dr. Valliere’s
 5 opinions.

6 **Marketing.** Plaintiff concedes that Dr. Valliere seeks to testify about “how Uber’s marketing
 7 ‘targeted . . . women.’” Opp’n at 20 (quoting Valliere Rep. at 2). Dr. Valliere herself cites to Uber’s
 8 advertisements, opining that “Uber’s advertising campaigns are aimed at attracting women to Uber in
 9 the most vulnerable situations[.]” Valliere Rep. at 35 (Dkt. 4470-23, Ex. 1). These are quintessential
 10 marketing opinions that Dr. Valliere is undisputedly not qualified to offer. And while Plaintiff claims
 11 that Dr. Valliere can testify on the “impact of Uber’s marketing,” Opp’n at 20, the JCCP court plainly
 12 held that “Dr. Valliere is not qualified to testify regarding . . . the purported impact of its
 13 advertisements on the general population” because nothing in her report or C.V. “reflect[s] any
 14 relevant skill or experience in marketing[.]” JCCP Order at 35.⁶

15 **Corporate Values.** Plaintiff claims that Uber “does not identify any specific opinions or
 16 testimony to exclude” and that Dr. Valliere’s opinions are “about preventing sexual assault, not
 17 ‘corporate governance.’” Opp’n at 21. In the same breath, Plaintiff points to testimony in “Dr.
 18 Valliere’s report [that] Uber cites” in which Dr. Valliere purports to opine on “‘Uber’s policies against
 19 sexual assault and sexual misconduct[.]’” *Id.* (quoting Valliere Rep. at 48); *see also* Valliere Rep. at
 20 33 (opining on Uber’s Community Guidelines). But Dr. Valliere is indisputably not qualified to opine
 21 on Uber’s corporate values.

22 **Uber’s Safety Features.** Plaintiff argues that Dr. Valliere “does not offer opinions on the
 23 design or effectiveness of safety features.” Opp’n at 21. Plaintiff apparently ignores that Dr. Valliere

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 25 ⁶ Plaintiff misconstrues the JCCP court’s holding, claiming that the “court recognized that Dr.
 26 Valliere was qualified ‘to testify on the potential psychological impact of such advertisements on
 27 female passengers.’” Opp’n at 20 (quoting JCCP Order at 36 n.24). But the JCCP court merely
 28 recognized that “[i]f Plaintiffs can present case-specific evidence regarding Uber’s marketing through
 another witness that supports their characterization, they may elicit Dr. Valliere’s opinions on the
 potential psychological impact[.]” JCCP Order at 36 n.24 (emphasis added). Just like the Plaintiffs in
 the JCCP, Ms. Dean has made no such showing here.

1 devotes *pages* of her report to discussing Uber’s specific safety features in-depth, including
 2 RideCheck, Share Your Ride, GPS, 911 Button, and audio recording. *See* Valliere Rep. at 25-30. As
 3 another court recently held in excluding Dr. Valliere’s opinions pertaining to “Lyft safety analysis and
 4 Lyft’s safety measures,” Dr. Valliere does “not have the requisite expertise” to opine on these topics.
 5 *See In re Lyft Rideshare Cases*, No. CJC-20-005061, at 8 (Sept. 30, 2025) (Dkt. 4339-1, Ex. 4).⁷

6 **Failure to Warn.** Plaintiff contends that “Dr. Valliere is qualified to testify on how warnings,
 7 or lack thereof, affect potential victims and offenders,” Opp’n at 22, but fails to identify any training,
 8 education, or experience that Dr. Valliere has with respect to warnings. Dr. Valliere’s professed
 9 “specialty in sexual assault” does not provide her with the requisite “specialized knowledge” to opine
 10 on warnings. *See Lucido v. Nestle Purina Petcare Co.*, 217 F. Supp. 3d 1098, 1103 (N.D. Cal. 2016)
 11 (holding veterinarian was not qualified “to provide opinions about what a reasonable consumer would
 12 consider material when deciding whether to purchase dog food”). Thus, Plaintiff has not met her
 13 “burden of proving” Dr. Valliere has the requisite qualifications. *See, e.g., Trivitis, Inc.*, 2012 WL
 14 1944827, at *3-4 (excluding expert where proponent “fail[ed] to meet its threshold showing that Mr.
 15 Larson is qualified as an expert”); *Engilis*, 151 F.4th at 1050 (“a proponent of expert testimony must
 16 always establish the admissibility requirements of Rule 702 by a preponderance of the evidence”).
 17 Additionally, the JCCP court did not hold (and indeed, never discussed), whether Dr. Valliere was
 18 qualified to opine on warnings. Rather, the JCCP court only addressed whether Dr. Valliere’s failure-
 19 to-warn opinions amounted to a legal conclusion. JCCP Order at 37.

20 In short, Plaintiff’s arguments with respect to Dr. Valliere’s qualifications are disingenuous
 21 because she simultaneously “disclaim[s] any intent on Dr. Valliere’s part to offer opinions on
 22 marketing, safety features, warnings” or corporate values, but then “immediately contradict[s]” herself
 23 by arguing those opinions are admissible. JCCP Order at 36 n.24. Plaintiff has not—and cannot—
 24 demonstrate that Dr. Valliere is qualified to opine on marketing, corporate values, Uber’s safety

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 26 ⁷ Plaintiff claims this order is “largely unreasoned and so unhelpful,” Opp’n at 21 n.13, but does not—
 27 and cannot—show that it was wrongly decided. Nor does Plaintiff cite any authority permitting an
 28 expert to opine on safety-related issues where he or she indisputably lacks any specialized knowledge
 or experience regarding such issues.

1 features and failure to warn. Accordingly, her opinions on these topics must be excluded.

2 **B. Dr. Valliere Lacks A Reliable Basis For Her Opinions About Uber's Conduct,
3 Marketing, Ethics, And Knowledge.**

4 1. Dr. Valliere's Marketing Opinions Are Inadmissible.

5 Uber explained in its opening brief that because Dr. Valliere cannot point to any data, study or
6 other objective evidence supporting her opinions regarding the factors consumers consider when
7 deciding to utilize Uber rideshare services, her marketing opinions are inadmissible. Mot. at 4-5. The
8 JCCP court and the *Lyft* court recently held as much, precluding Dr. Valliere from offering marketing
9 opinions where she did not “conduct any survey of how Uber’s advertisements affected the general
10 public or women customers in particular.” JCCP Order at 35-36; *see also In re Lyft Rideshare Cases*,
11 No. CJC-20-005061, at 7 (Sept. 12, 2025) (Ex. 2).⁸

12 Plaintiff nonetheless claims that “Dr. Valliere was [not] required to conduct a survey, consumer
13 research, or consumer interviews” “to discuss Uber’s marketing and its effects,” because Dr. Valliere’s
14 claimed expertise in sexual assault (not marketing) and her subjective review of (select) Uber
15 documents somehow permits her to opine on “Uber’s marketing and its effects” on the general
16 population. Opp’n at 22-23. As set forth above, Plaintiff’s reliance on outdated (i.e., pre-Rule 702
17 amendment) cases does not support this position because “Rule 702 requires that challenges to an
18 expert’s opinion go to the weight of the evidence only if a court first finds it more likely than not that
19 an expert has a sufficient basis to support an opinion.” *Engilis*, 151 F.4th at 1049. Dr. Valliere’s lack
20 of any empirical evidence (coupled with her undisputed lack of marketing qualifications) means that
21 her marketing opinions are nothing more than her own say-so, which clearly does not suffice under
22 recently amended Rule 702. And Plaintiff’s reliance on Dr. Valliere’s review of “Uber’s own
23 documents” to cobble together a methodology cannot salvage her opinions because “the jury is in as
24 good a position as the expert to draw conclusions from the evidence[.]” *Siqueiros*, 2022 WL 74182,
25 at *9; *see also Johns*, 2013 WL 1498965, at *28 (excluding expert’s marketing opinion that was

26 ⁸ Plaintiff brushes aside these holdings in a mere footnote, claiming that the JCCP court “order
27 believed a ‘survey’ was necessary” and the *Lyft* order was “largely unreasoned.” Opp’n at 23 n.15.
28 These efforts to diminish the two courts’ well-reasoned decisions are meritless, particularly given
Plaintiff’s failure to cite any on-point cases reaching a different conclusion.

1 “nothing more than a synopsis of Bayer’s marketing . . . , quoting extensively from both third-party
 2 market research reports and Bayer’s own internal documents”).

3 2. Dr. Valliere’s “Enhanced Risk” Opinions Are Rank Speculation.

4 As set forth in Uber’s opening brief, Dr. Valliere’s broad opinions on the alleged “enhanced
 5 risk of sexual assault and sexual misconduct of women using Uber” and the “unique features to the
 6 Uber rideshare environment” that supposedly make it ripe for sexual assault should be excluded as
 7 rank speculation. Mot. at 5 (quoting Valliere Rep. at 1, 11). Plaintiff’s arguments to the contrary lack
 8 merit.

9 **First**, Plaintiff claims that although Dr. Valliere’s “enhanced risk” opinions are based solely
 10 on her review of Uber’s documents and deposition testimony, she “looked at all the evidence she
 11 deemed necessary” to formulate her paid-for expert opinion. Opp’n at 23. But Plaintiff misses the
 12 point. Dr. Valliere’s methodology is based exclusively on documents hand-selected for her by
 13 Plaintiffs’ counsel in this litigation, thus seriously calling into question the reliability of her
 14 methodology. *See* Mot. at 5-6. In any event, Dr. Valliere did not, in fact, look at all documents
 15 “necessary” for her opinions. Dr. Valliere’s deposition testimony is rife with examples that
 16 demonstrate her lack of fundamental information material to her “enhanced risk” expert opinions,
 17 including her wholesale lack of any “investigat[ion]” into studies regarding the safety or efficacy of
 18 rideshare features. Mot. at 6 (quoting Valliere Dep. 167:16-25 (Dkt. 4470-25, Ex. L)). Plaintiff
 19 attempts to excuse Dr. Valliere’s lack of knowledge of safety features by claiming that Dr. Valliere
 20 “does not opine on the[] **efficacy**” of the safety features, but rather opines “only on Uber’s conduct in
 21 promoting features it knows are not **effective**, or have not been measured for **effectiveness
 22 24 (citing Valliere Rep. at 20-22) (emphasis added). But it is nonsensical to assert (as Plaintiff does)
 23 that Dr. Valliere should be allowed to opine that Uber promoted ineffective safety features without the
 24 baseline knowledge of whether those safety features were actually ineffective. It is also false that Dr.
 25 Valliere does not opine on the efficacy of Uber’s safety features; in fact, she devotes pages of her
 26 report to Uber’s specific safety features, including RideCheck, Share Your Ride, GPS, 911 Button,
 27 and audio recording, *see* Valliere Rep. at 25-30, including her explicit and unsupported claim that**

1 safety features “give an impression of safety without actually increasing safety,” *id.* at 29—i.e., are
 2 ineffective.

3 **Second**, Plaintiff does not dispute that Dr. Valliere ignored evidence that belies her opinion
 4 that “the actual number of sexual assault[s] [in Ubers] . . . is significant,” including that the rate of
 5 incidents is exceedingly small. Mot. at 7 (quoting Valliere Rep. at 16). Rather, Plaintiff claims that if
 6 this is true and Dr. Valliere is “simply wrong,” “that . . . goes to Uber’s defense on the merits and is
 7 irrelevant to the admissibility of Dr. Valliere’s testimony.” Opp’n at 24-25. Not so. Dr. Valliere’s mere
 8 assumption that Uber is not safe is foundational to her “enhanced risk” opinions, and thus, under
 9 recently amended Rule 702, the onus was on Dr. Valliere to meaningfully address evidence in the
 10 record that undermines that core premise of her conclusions and explain why it does not invalidate
 11 them. *See In re Valsartan*, 2025 U.S. Dist. LEXIS 221602, at *28 (excluding expert who “routinely
 12 ignored facts and data that were inconvenient to her ultimate conclusion, demonstrating the
 13 conclusion-driven nature of her testimony”).

14 3. Dr. Valliere Lacks A Reliable Basis For Her Failure-To-Warn Opinions.

15 Dr. Valliere’s failure-to-warn opinions are also inadmissible because they are pure *ipse dixit*.
 16 Mot. at 7-8. Plaintiff claims that Dr. Valliere’s failure-to-warn opinions are based on her
 17 “understanding of what information matters to potential victims” and her “review of Uber’s own
 18 documents and testimony.” Opp’n at 25. But Plaintiff cannot demonstrate that Dr. Valliere has a
 19 reliable or factual basis for any “understanding” of how potential victims perceive warnings because
 20 she did not so much as “speak to a single plaintiff or driver who uses the Uber platform on that subject.”
 21 JCCP Order at 36. Such wholesale failure to substantiate her failure-to-warn opinions means that
 22 Plaintiff has “failed to establish that [Dr. Valliere’s] testimony [is] ‘based on sufficient facts or data.’”
 23 *Engilis*, 151 F. F.4th at 1053 (citing Fed. R. Evid. 702(b)); *see also In re Valsartan*, 2025 U.S. Dist.
 24 LEXIS 221602, at *45 (offering “little else than her own say-so” is “not the product of a reliable
 25 methodology”).

26 4. Dr. Valliere’s Opinions On Corporate Values Should Be Excluded.

27 As Uber explained in its opening brief, Dr. Valliere’s proposed commentary on Uber’s
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1 “values” and the ethics of Uber’s conduct is inadmissible because: (1) the opinions are not the proper
 2 subject of expert testimony; (2) Dr. Valliere fails to apply any objective standard to her ethics opinions;
 3 and (3) the opinions are not relevant. Mot. at 8-9. Plaintiff does not address—much less dispute—
 4 these points. Rather, Plaintiff claims that Dr. Valliere is “not offer[ing] any such opinions” because
 5 “the word ‘ethic’ appear[s] once in Dr. Valliere’s report.” Opp’n at 26. But Uber provided multiple
 6 examples of Dr. Valliere’s inappropriate corporate “values” and ethics opinions in its opening brief,
 7 which Plaintiff fails to address. *See* Mot. at 8. And Plaintiff ignores that Dr. Valliere references Uber’s
 8 “values” multiple times in her report, including “question[ing] [Uber]’s values.” Valliere Rep. at 6.
 9 These opinions are inadmissible.

10 Plaintiff also claims that “Uber does not want Dr. Valliere to testify to certain background on
 11 Uber’s history[.]” Opp’n at 26. That is not the point. As Uber explained, such evidence of “Uber’s
 12 history” “is better presented through introduction of documents or non-expert testimony,” *Pritchett v.*
 13 *I-Flow Corp.*, No. 09-CV-02433-WJM-KLM, 2012 WL 1059948, at *7 (D. Colo. Mar. 28, 2012)
 14 (citation omitted), rather than Dr. Valliere—a mere sexual assault expert who simply reviewed select
 15 Uber documents and seeks to put her own “spin” on Uber’s history. And while Plaintiff also claims
 16 that this issue can be addressed through a Rule 403 objection “at trial,” Opp’n at 26, Uber’s argument
 17 implicates Rule 702 and, thus, should be resolved at this stage of the proceedings. *See In re Trasylol*,
 18 709 F. Supp. 2d at 1337 (objections to summaries of fact evidence by experts should be decided before
 19 trial).

20 5. Dr. Valliere’s Opinions Regarding Uber’s Knowledge Should Be Excluded.

21 Dr. Valliere’s opinions concerning Uber’s supposed corporate knowledge, motives, and intent
 22 are also inadmissible. Mot. at 9. Plaintiff claims that “experts may testify to what a defendant ‘knew
 23 or should have known,’” Opp’n at 16, 26, but as set forth above, even Plaintiff’s cited cases
 24 acknowledge that “experts generally cannot opine on a defendant’s subjective knowledge or intent.”
 25 *McCoy*, 2024 WL 1705952, at *17 (cited in Opp’n at 16) (permitting expert to opine on “the
 26 information available to them” but “not on Defendants’ state of mind”) (citation omitted). And none
 27 of Plaintiff’s authority supports what Dr. Valliere seeks to do here, which is to opine on what Uber

1 “knew.”

2 Plaintiff’s examples underscore this point. Plaintiff claims that Dr. Valliere should be able to
 3 opine that ““Uber knows the public and passengers look to its background check system as a safety
 4 feature and rely on it”” because this a “a fact that supports Dr. Valliere’s analysis[.]” Opp’n at 26-27
 5 (quoting Valliere Rep. at 23). But expert opinion regarding a corporation’s knowledge is not “a fact”;
 6 rather, such opinions “draw[] . . . an inference from the facts of the case.” *Siring v. Or. State Bd. of*
 7 *Higher Educ. ex rel. E. Or. Univ.*, 927 F. Supp. 2d 1069, 1077 (D. Or. 2013). It is also not up to Dr.
 8 Valliere to determine the “fact” of what Uber knew—such conclusions are properly reserved for the
 9 trier of fact. *Aya Healthcare Servs. v. AMN Healthcare, Inc.*, 613 F. Supp. 3d 1308, 1322 (S.D. Cal.
 10 2020) (expert’s state-of-mind conclusions were inadmissible because such “testimony intrudes on the
 11 province of the jury, wh[ich] is capable of evaluating the same evidence and drawing conclusions
 12 without [the expert’s] proffered testimony”).

13 6. Dr. Valliere Should Not Be Allowed To Simply Summarize Company
 14 Documents.

15 Lastly, Dr. Valliere’s “opinions” that merely consist of her summarizing company documents
 16 under the guise of expert testimony should be excluded from trial. Mot. at 9-10. In response to this
 17 argument, Plaintiff claims that there is “no bar to ‘narrative’ testimony that is helpful to the jury.”
 18 Opp’n at 27. Plaintiff is incorrect. Courts have repeatedly and consistently recognized that while an
 19 expert “may explain the factual basis for [her] opinions,” she is “not [] permitted to gratuitously
 20 comment on factual evidence or engage in lengthy factual narratives.” *In re Bard IVC Filters Prods.*
 21 *Liab. Litig.*, No. MDL 15-02641-PHX DGC, 2018 WL 11446831, at *4 (D. Ariz. Jan. 22, 2018). Nor
 22 can an expert “simply rehash[] otherwise admissible evidence about which [s]he has no personal
 23 knowledge.” *Highland Cap. Mgmt., L.P. v. Schneider*, 379 F. Supp. 2d 461, 468-69 (S.D.N.Y. 2005)
 24 (“an expert cannot be presented to the jury solely for the purpose of constructing a factual narrative
 25 based upon record evidence”) (citation omitted). As set forth in Uber’s opening brief, Dr. Valliere’s
 26 expert report is rife with instances where she merely parrots Uber documents that jurors can easily
 27 understand and interpret. Mot. at 9-10. For example, Dr. Valliere copied and pasted an Uber document
 28 into her report, Valliere Rep. at 9, with the following “analysis” that amounts to nothing more than

1 repeating the document's contents: “[h]ere, Uber admits that ‘both trust and safety’ ‘have a *direct*
 2 *impact* on rider...behavior.’” *Id.* (quoting UBER_JCCP_MDL_000889155). This is not an “analy[sis]
 3 of] Uber’s advertisements using her expertise on sexual assault victims,” Opp’n at 28, as Plaintiff
 4 claims, but a mere regurgitation of an internal Uber document. This testimony—and other improper
 5 narratives included throughout Dr. Valliere’s report—is impermissible expert testimony that should
 6 be excluded from trial.

7 **III. MR. FELDIS’S OPINIONS SHOULD BE EXCLUDED.**

8 Mr. Feldis’s opinions should be excluded for two primary reasons. First, his supposed expertise
 9 in engineering and product development does not qualify him to offer opinions related to the
 10 technological feasibility of a hypothetical product he has never developed. And second, he applied an
 11 unreliable and subjective methodology that consisted of Google searches and reliance on unrelated
 12 work experience that Plaintiff classifies as “involv[ing] the same technology as dashcams,” Opp’n at
 13 30, without any support or basis.⁹ Plaintiff is unable to refute either argument.

14 **A. Mr. Feldis Is Not Qualified To Testify In This Case.** Plaintiff’s Opposition
 15 mischaracterizes Mr. Feldis’s opinions in an attempt to demonstrate that he is
 16 qualified to offer them at trial, suggesting that he is merely opining “on the
 17 feasibility of dashcam technology” generally. Opp’n at 29. But that is not correct.
 18 Mr. Feldis offers a very specific and technical opinion that it was technologically
 19 feasible to automatically record every ride arranged via the Uber platform
 20 without the driver controlling the footage. Feldis Rep. at 13 (Dkt. 4343-1, Ex. 2).
 21 In other words, he opines that Uber could put a dashcam in every independent
 22 vehicle used by drivers who use the Uber platform to connect with potential riders,
 23 monitor the camera in some way so that Uber could initiate recording during a
 24 trip, and ensure that footage could be shared with Uber (and not accessed at any
 25 time by the driver) in the event of a safety report.¹⁰ This opinion thus goes well
 26 beyond a chronology of when dashcams were an available technology and covers
 27 a raft of other issues pertaining to the implementation of that technology in the
 28 ridesharing context, and Mr. Feldis is not qualified to opine on those matters. As
 29 discussed in Uber’s Opening Brief, Mr. Feldis’s broad expertise as a product
 30 developer and his work with web cameras 20 years ago is insufficient to qualify
 31 him to opine regarding the technological feasibility of a networked mandatory
 32 dashcam program across the Uber platform.¹¹ It is undisputed that Mr. Feldis has

24 ⁹ Plaintiff states in her Opposition that Mr. Feldis’s report does not include deterrence opinions, and
 25 her Opposition does not substantively respond to Uber’s arguments to exclude his deterrence opinions.
 26 Opp’n at 32. Accordingly, the Court should grant Uber’s motion at least to this extent as unopposed.

27 ¹⁰ Plaintiff’s reliance on Judge Schulman’s Order is misplaced because Mr. Feldis offered a different
 28 opinion in the JCCP.

29 ¹¹ In total, other than his work at Logitech from 1993-2006 working on web cameras, Mr. Feldis has
 30 only worked on five projects even tangentially related to cameras: a doorbell camera, a charging station

1 never worked with dashcams outside this litigation, has no experience integrating
 2 a dashcam, camera, or any product into a passenger vehicle, has never developed
 3 an app and is not an app developer, and last worked on a camera project in 2021.
 4 Feldis Dep. 67:5-8; 70:22-71:2; 72:15-17; 126:25-2 (Dkt. 4343-1, Ex. 1). While
 5 Plaintiff argues that Rule 702 only requires a “minimal” foundation of
 6 qualifications, Opp’n at 29, she has not come close to laying the requisite
 7 foundation given her failure to refute Uber’s argument that Mr. Feldis’s
 8 experience is far removed from the *specific* subject matter of his proffered
 9 opinions. *Carlos Rivera v. Ford Motor Co.*, No. CV 18-07798 DSF (PJWX), 2020
 10 WL 4001914, at *6 (C.D. Cal. Mar. 12, 2020) (plaintiff failed to lay sufficient
 11 “foundation” because even though proffered expert was “an expert in some of the
 12 fields related to this case . . . nothing in his background, training, or experience
 13 even suggests he is qualified to give an opinion concerning value”).

14 **B. Mr. Feldis’s Opinions Are Not Based On A Reliable Methodology.**

15 Plaintiff’s attempt to salvage Mr. Feldis’s unreliable methods depends again on an improper
 16 framing of his opinions. Specifically, Plaintiff focuses on the availability of dashcam technology itself,
 17 while ignoring the much broader scope of Mr. Feldis’s opinions, which also address the feasibility of
 18 placing such technology in every driver’s car and monitoring each ride while preventing interference
 19 by the driver.¹² These opinions lack support in Mr. Feldis’s reliance materials or his experience.

20 Plaintiff argues that Mr. Feldis relied on Uber documents and depositions in addition to the
 21 Google searches noted in Uber’s motion. But Mr. Feldis does not claim that such materials support
 22 his opinions. *In re Rezulin Prods. Liab. Litig.*, 369 F. Supp. 2d 398, 407 (S.D.N.Y. 2005) (“The subject
 23 of [a Rule 702] motion is the proposed testimony of experts, not the theories of the lawyers.”). Instead,
 24 he asserts only that “the materials I reviewed do not support th[e] claim” that “dashcams that
 25 automatically record audio and video for every ride are or were technologically infeasible.” Feldis
 26 Rep. at 2. This assertion misstates the burden of proof. *See In re Onglyza*, 93 F.4th 339, 345 (6th Cir.
 27 2024) (affirming exclusion of expert who opined that there was an “absence of ‘compelling’ evidence”
 28 disproving causation because such testimony “reverses the burden of proof”). The fact that Mr. Feldis
 did not find any documents addressing the infeasibility of his imagined dashcam system does not
 somehow prove that such a hypothetical system was in fact feasible. And Mr. Feldis admits he did not

29 sensor, a FedEx delivery robot, a baby monitor, and a recycling robot. Feldis Dep. 59:8-66:25.

30 ¹² Mr. Feldis seeks to offer two opinions: 1) that “by 2017 it was technically feasible to employ cabin-
 31 facing dashcam video recording into rideshare vehicles that records audio and video *for every ride*
 32 *without drivers controlling the footage*”; and 2) “To the extent that Uber claims that dashcams that
 33 automatically record audio and video for every ride are or were technologically infeasible, the
 34 materials I reviewed do not support that claim.” Feldis Rep. at 2 (emphasis added).

1 review any Uber documents testing the technological feasibility of an automatic, mandatory dashcam
 2 program without driver control (the question at issue here) and that he “obviously did not review all
 3 of the documents in the case.” Feldis Dep. 197:8-14.

4 Plaintiff also references Mr. Feldis’s sporadic “purchase and installation of dashcam products,”
 5 Opp’n at 31, but this reliance is also misplaced. That Mr. Feldis installed three dashcams in his own
 6 car offers no insight on the technological feasibility of Uber installing or requiring drivers to install
 7 dashcams in millions of vehicles and Uber (not the driver) controlling the initiation of the recording
 8 and the resulting footage.

9 At bottom, Mr. Feldis’s feasibility opinion is based on nothing more than his own “say-so,”
 10 which is not a reliable methodology. *In re Valsartan*, 2025 U.S. Dist. LEXIS 221602, at *45 (offering
 11 “little else than her own say-so” is “[n]ot the product of a reliable methodology”). Mr. Feldis did not
 12 research the number of independent vehicles operated by drivers utilizing the Uber platform. Feldis
 13 Dep. 134:19-23. He admitted he would “defer to an app designer” on how to actually connect a camera
 14 to the Uber application. He did not research and could not name a single company that could actually
 15 build millions of dashcams for Uber. *Id.* 126:25-127:3; 135:8-15. And despite concluding that Uber
 16 could rely on a fleet telematics company to automatically record all rides, Mr. Feldis admitted he never
 17 worked with a fleet telematics company and that he “can’t say I’m aware one way or the other” whether
 18 any fleet telematics company is equipped to work with millions of different vehicles, as opposed to a
 19 standardized fleet. *Id.* 162:3-12. In short, Mr. Feldis’s opinions are not the product of a reliable
 20 methodology and should be excluded.

21 **IV. DR. CAMERON’S OPINIONS SHOULD BE EXCLUDED.**

22 The Court should exclude the testimony of Dr. Lindsey Cameron, Plaintiff’s proffered rebuttal
 23 expert to Uber’s expert Joseph Okpaku. As explained in Uber’s opening brief, Dr. Cameron’s opinions
 24 suffer from three fundamental flaws that each independently render them inadmissible. First, the
 25 methodology described in Dr. Cameron’s report is, by her own description, subjective and unscientific,
 26 and therefore unreliable. Second, her opinions about Uber do not actually follow from that
 27 methodology, or seemingly any methodology at all. And third, her opinions are irrelevant because the

1 question of whether Uber “controls” the independent drivers who use its platform, the subject of Dr.
 2 Cameron’s opinions, is already answered in the negative by an Arizona statute. Plaintiff’s responses
 3 on each of these points are unavailing.

4 **First**, Plaintiff misconstrues Uber’s arguments about the reliability of Dr. Cameron’s
 5 “structural ethnography” method. The issue is not that Dr. Cameron’s methods are qualitative rather
 6 than quantitative *per se*. The issue is that the methodology Dr. Cameron describes, according to her
 7 own deposition testimony—and unlike other qualitative methods—does not follow the scientific
 8 method, because it does not start with a hypothesis and then gather (qualitative or quantitative) data to
 9 confirm or falsify that hypothesis. Cameron Dep. 182:14-183:5 (Ex. 3)¹³ (Q. “Is another way to think
 10 about qualitative research and theory creation, that it’s hypothesis generating?” A. “That’s an
 11 interesting question. There is some qualitative research that’s hypothesis generating. It’s not the type
 12 of qualitative research I do, though. . . . I’m not familiar with the type of research that generates
 13 hypothesis.”). Instead, Dr. Cameron’s described method consists of gathering anecdotes and drawing
 14 subjective conclusions from them—conclusions that are not reproducible or reliable in the sense that
 15 another person looking at the same anecdotal data would not necessarily draw the same conclusions.
 16 *Id.* 147:16-20 (A. “Reliability would be, like, could somebody else look at my same data set and
 17 produce the same results, and that’s not qualitative, that’s a quantitative approach.”); *id.* 148:8-23
 18 (“That’s not what I do.”).

19 Plaintiff’s opposition brief offers no authorities suggesting that a concededly unscientific
 20 methodology like this one is reliable and admissible under Rule 702 and *Daubert*. Instead, Plaintiff
 21 relies on the uncontroversial but inapposite point that the “hallmarks of qualitative research: long-term
 22 (participant) observation, longitudinal interviews, and in-depth analysis of archival documents” can
 23 form the basis of reliable methodology. Opp’n at 79 (cleaned up). But this is emphatically *not* the
 24 methodology that Dr. Cameron purports to have applied. Far from “long-term” observations and
 25 “longitudinal interviews,” Dr. Cameron instead conducted a series of one-off “conversational” or

26
 27 ¹³ The final version of Dr. Cameron’s deposition transcript was not available when Uber filed its
 28 opening brief.

1 “semi-structured” interviews of riders and drivers who use the Uber platform, asking an unknown
 2 series of questions on undisclosed topics, and asserting conclusions about Uber that are (purportedly)
 3 based on the interview participants’ answers.¹⁴ *Id.* at 80. This process much more closely resembles
 4 the anecdotal methods that courts have rejected in *Chandler Gas, Pryba*, and *In re Volkswagen*, Mot.
 5 at 4, than the rigorous, scientific qualitative study that the court accepted in *Kanuszewski v. Shah*, 583
 6 F. Supp. 3d 1018, 1023 (E.D. Mich. 2022), on which Plaintiff relies. Opp’n at 81.

7 Plaintiff offers two further arguments, but neither is persuasive. First, Plaintiff notes that peer-
 8 reviewed research in Dr. Cameron’s field utilizes the methodology she purports to apply, and that
 9 some of Dr. Cameron’s work using this methodology has been published in peer-reviewed academic
 10 journals. *Id.* at 80-81. But courts have expressly stated that peer review is not sufficient by itself for
 11 admissibility under *Daubert*. See *Allison v. McGahn Med. Corp.*, 184 F.3d 1300, 1313 (11th Cir.
 12 1999); *Davis v. Lockheed Martin Corp.*, 705 F. Supp. 3d 1345, 1350 n.6 (M.D. Fla. 2023). While it
 13 may be one relevant factor among many, the Court is still obligated to apply its independent
 14 gatekeeping role. See *Engilis*, 151 F.4th at 1047.

15 Plaintiff also cites a handful of cases in which courts permitted an expert to rely on the expert’s
 16 own personal knowledge or experience as “the requisite ‘facts or data’ on which they [may] render an
 17 opinion.” *Elosu v. Middlefork Ranch, Inc.*, 26 F.4th 1017, 1024 (9th Cir. 2022); Opp’n at 80-81 (citing,
 18 e.g., *Planned Parenthood Se., Inc. v. Strange*, 33 F. Supp. 3d 1381, 1392 (M.D. Ala. 2014)). But these
 19 cases involved experts with extensive, specialized, first-hand experience. E.g., *Planned Parenthood*,
 20 33 F. Supp. 3d at 1391-92 (permitting expert with “extensive background in law enforcement”
 21 including experience as undercover officer for NYPD and 23 years at FBI, to testify about abortion at
 22 law enforcement clinics). Dr. Cameron spent a mere 100 hours “applying for, training, and working
 23 as a ride-hailing driver” on the Uber platform. Cameron Rep. ¶ 10 (Dkt. 4470-27, Ex. M). That limited
 24 experience is not sufficient to form the basis of a reliable expert opinion.

25
 26 ¹⁴ As explained in Uber’s opening brief, Dr. Cameron’s opinions must be excluded for the additional
 27 reason that she failed to produce any of the data she purportedly collected from her research, including
 notes and transcripts from her interviews of drivers and passengers. Without these materials, Uber has
 no ability to test whether Dr. Cameron’s conclusions about Uber have any basis in the interview
 participants’ answers. Plaintiff offers no response on this point.

Second, even if Dr. Cameron’s structural ethnography method were reliable, Plaintiff provides no reason to believe that Dr. Cameron’s opinions about Uber actually follow from that methodology, or any methodology at all. As explained in Uber’s opening brief, there is a striking dichotomy in Dr. Cameron’s report: although she spends the bulk of her report describing the methodology outlined above, when she finally turns to offering her opinions that Uber exercises control over the drivers on the platform, there is nothing connecting those opinions to the preceding methodology. *See Mot.* at 6-7 (Dkt. 4397). Dr. Cameron does not explain, for example, how her interviews with drivers or passengers who use the Uber platform led her to adopt the control opinions that she offers. Nor does she explain how her limited experience as a driver using the Uber platform supports or gives rise to her opinions. Rather, as explained in Uber’s opening brief, Dr. Cameron’s opinions consist of generalized claims about characteristics of the Uber algorithm and how Uber allegedly exercises control over independent drivers, and she fails to ground those conclusions in any methodology whatsoever.

Plaintiff seems to misunderstand this argument and offers no real response other than to assert that “Dr. Cameron’s immersion research” is “only one piece of the foundation for her opinions.” Opp’n at 82. But this is not a real answer because it does not explain how Dr. Cameron’s conclusions about Uber actually follow from the methodology that she purports to apply. And if they do not, then they are plainly inadmissible. *See* Fed. R. Evid. 702(d) Advisory Committee Notes on 2023 Amendment to Fed. R. Evid. 702 (“[Rule 702(d)] does not permit the expert to make claims that are unsupported by the expert’s basis and methodology.”); Mot. at 6-7 (Dkt. 4397) (citing cases).

Third, Plaintiff’s arguments about relevance are wrong as a matter of law. Dr. Cameron’s opinions all go to the issue of whether Uber exercises control over drivers who use the Uber platform. That issue would be relevant if it bore on the broader question of whether the third-party drivers were employees or independent contractors of Uber. But, as explained in Uber’s opening brief, an Arizona statute enacted in 2016 effectively classifies drivers using platforms like Uber and Lyft as independent contractors as a matter of law. Mot. at 8-9 (Dkt. 4397); *see* A.R.S. § 23-1603. The issues of control that are the subject of Dr. Cameron’s opinions are therefore irrelevant.

1 Plaintiff responds that A.R.S. § 23-1603 “governs things like workers’ compensation and
 2 wages, [but] does not modify Arizona’s longstanding, common-law test for respondeat superior
 3 liability.” Opp’n at 83-84. This argument is flatly inconsistent with the text of the statute, which
 4 provides that “qualified marketplace contractors” (e.g., drivers who use rideshare platforms) are
 5 “independent contractor[s] for all purposes under state and local laws.” A.R.S. § 23-1603 (emphasis
 6 added). “All purposes” plainly includes respondeat superior liability. Moreover, Uber’s opening brief
 7 cites three decisions in which Arizona courts relied on A.R.S. § 23-1603 to grant summary judgment
 8 to Uber and DoorDash, including on respondeat superior liability. Plaintiff provides no reason for this
 9 Court to ignore that black-letter law.

10 Finally, even if this Court were to apply Arizona’s common law control test, Dr. Cameron’s
 11 opinions would still be irrelevant. The old common law “right-to-control test requires an examination
 12 of whether the employer reserves the right to supervise or control the method of performing the
 13 contracted service or whether the employer’s control is limited to the result, leaving the method to the
 14 other party.” *Simon v. Safeway, Inc.*, 173 P.3d 1031, 1036 (Ariz. Ct. App. 2007). But Dr. Cameron
 15 does not opine that Uber “reserve[d] the right to supervise or control the method of performing” the
 16 ridesharing service. She instead opines that Uber matches drivers and passengers, provides incentives
 17 for drivers to use the Uber app during peak times, offers a feedback and rating system, etc. *See* Mot.
 18 at 2 (Dkt. 4397); Cameron Rep. ¶¶ 72, 88-98 (Dkt. 4470-27, Ex. M). None of this constitutes
 19 “supervis[ing] or control[ing] the method of performing.” Dr. Cameron’s opinions are therefore
 20 irrelevant, and the Court should exclude her for this additional and independent reason.

21 **V. MS. KELLER’S OPINIONS SHOULD BE EXCLUDED.**

22 In its opening brief, Uber explained that Ms. Keller’s opinions about absolute numbers of
 23 alleged sexual assault or sexual misconduct incidents are meaningless, and thus inadmissible, absent
 24 a baseline or some sort of comparison group. *See generally* Dkt. 4337 at 1-4 (Motion). In response,
 25 Plaintiff argues that “[t]he number of reported incidents goes to Uber’s knowledge, whether it
 26 exercised ordinary care, whether its product is defective, and the recklessness of its conduct.” Opp’n
 27 at 41.

1 But that is not true. The number of reported incidents is only relevant to questions of liability
 2 when put into context. For example, a plaintiff could never prove liability against a car manufacturer
 3 simply because 1,000 of its cars were involved in motor vehicle accidents in a given year. Motor
 4 vehicle accidents happen. A 1,000-accident metric is only relevant when placed into context with other
 5 data, such as how many of the company’s cars are on the road, and other manufacturers’ rates of motor
 6 vehicle accidents. For this reason, courts routinely hold that absolute numbers—like those provided
 7 by Ms. Keller—are meaningless without context. *See Hunter v. Elanco Animal Health Inc.*, No. 1:20-
 8 cv-01460-SEB-MG, 2022 WL 3445173, at *18 (S.D. Ind. Aug. 17, 2022) (“The First Amended
 9 Complaint also lacks any statistics or data to place the allegations of ‘excess demand’ or ‘excess
 10 inventory’ in context—an omission that hinders a finding that the defendants issued false and
 11 misleading statements.”); *In re Harley-Davidson, Inc. Sec. Litig.*, 660 F. Supp. 2d 969, 986 (E.D. Wis.
 12 2009) (allegation that certain dealerships had between 3,000 and 5,000 units per day of excess
 13 inventory “is not very helpful” in the absence of “comparisons to historical inventory levels” or
 14 “‘normal’ inventory levels”).

15 Plaintiff next argues that Ms. Keller **does** provide a “baseline” with which to compare Ms.
 16 Keller’s numbers: “the number of reports that Uber publicly disclosed—3% of the total.” Opp’n at 41.
 17 But that is not a baseline, because it does not compare Uber’s incident rate with the sexual assault rate
 18 in any other mode of transportation or in society at large.

19 Finally, Plaintiff argues that Ms. Keller’s opinions about absolute numbers are “directly
 20 responsive to Uber’s defense[]” that the “low rate” of sexual assault and misconduct on rides arranged
 21 through the Uber app “showed its conduct was not negligent.” *Id.* at 41. But Ms. Keller’s absolute
 22 numbers do not respond at all to that defense, precisely because—as Uber explained in its opening
 23 brief—Ms. Keller did *not* undertake any analysis about “how sexual misconduct related to the Uber
 24 platform compares to the outside world.” Dkt. 4337 at 2. As such, Ms. Keller’s opinions do nothing
 25 to “show[] that the rates Uber represents are dramatically understated.” *Contra* Opp’n at 41-42.

26 **VI. DR. CHANDLER’S OPINIONS SHOULD BE EXCLUDED.**

27 Plaintiff’s opposition confirms that Dr. Chandler’s opinions are not based on a reliable

1 methodology and should be excluded.

2 **A. Dr. Chandler's Marketing Opinions Are Unreliable.**

3 Plaintiff's efforts to resuscitate Dr. Chandler's marketing opinions all fail.

4 ***First***, Plaintiff does not dispute that large portions of Dr. Chandler's report simply repeat and
 5 editorialize on the documents and evidence in this case, but insists nonetheless that his narrative is
 6 appropriate to provide a foundation for his opinion. This argument misses the point. There is nothing
 7 wrong with an expert laying out the factual basis for his opinions; Uber has not argued otherwise.
 8 Having laid out those facts, however, the expert must then apply some sort of methodology or analysis
 9 that will assist the jury in assessing the evidence. Otherwise, the expert simply usurps the jury's
 10 factfinding role.

11 Dr. Chandler never undertook that critical step. Instead of providing expert or specialized
 12 analysis, he simply catalogues cherry-picked¹⁵ pieces of evidence and draws his own subjective
 13 conclusions from that material, a task that is well within the province of the jury. *See generally*
 14 Chandler Rep. ¶¶ 20-21 (Dkt. 4470-9, Ex. D); *see Burrows v. 3M Co.*, No. C19-1649-RSL, 2022 WL
 15 3346419, at *5 (W.D. Wash. Aug. 12, 2022) (expert “invade[d] . . . province” of jury where his opinion
 16 was based on review of defendant’s promotional materials).¹⁶ As a result, the Court is left only with
 17 Dr. Chandler’s word that no one could “interpret the documents” without his “extensive marketing
 18 experience.” Opp’n at 44 (quoting Chandler Dep.). Such assurances are insufficient, of course, and his
 19 testimony should therefore be excluded.

20 ***Second***, Dr. Chandler’s testimony about how Uber’s marketing supposedly impacted

22 ¹⁵ Contrary to Plaintiff’s argument, Uber never asserted that Dr. Chandler “discusses too many []
 23 documents.” Opp’n at 46. Rather, the point is that he relied only on documents and evidence that the
 24 jury is capable of evaluating itself.

25 ¹⁶ Plaintiff argues that *Sanchez v. Bos. Sci. Corp.*, No. 2:12-cv-05762, 2014 WL 4851989 (S.D. W.
 26 Va. Sept. 29, 2014), is distinguishable, supposedly because “the expert’s actual opinion” in that case
 27 “lacked any actual support, leaving only narrative description.” Opp’n at 46 n.34. But the *Sanchez*
 28 court’s holding focused on “the majority of [the expert’s] opinion [which] simply recites what [the
 Defendant] did or did not do.” *Sanchez*, 2014 WL 4851989, at *31. The court found that those
 29 opinions, addressing defendant’s “knowledge, state of mind, and legal conclusions,” were “not
 appropriate subjects of expert testimony,” and these flaws “permeate[d] his entire expert report.” *Id.*

1 consumers is speculative because he did not rely on any concrete evidence or conduct any independent
 2 surveys. Plaintiff points to an internal 2014 consultant report, Opp'n at 46 (citing Chandler Rep. ¶ 85),
 3 but that document says nothing about Uber's marketing across time or how it affected consumers
 4 during the timeframe when Plaintiff has used the Uber app. And Dr. Chandler identified no other
 5 evidence establishing either that the data in the report is misleading or that consumers were actually
 6 misled by Uber's Safety Reports.

7 **Third**, Dr. Chandler's ethics opinions are inadmissible because they are irrelevant and
 8 prejudicial. A jury's only role is to apply the law to the facts of the case to determine whether liability
 9 should be imposed on the defendant. It does not sit as an arbiter of a trade association's ill-defined,
 10 non-binding ethical standards. Plaintiff nevertheless attempts to bootstrap those materials into this case
 11 by arguing that they will "help the jury determine whether Uber exercised reasonable care, the relevant
 12 'legal standard.'" Opp'n at 47-48. Unsurprisingly, Plaintiff cites no authority for the proposition that
 13 "reasonable care" can be determined in reference to ethical guidelines promulgated by an outside
 14 organization with which Uber has no relationship.

15 Plaintiff argues that *In re Rezulin* can be distinguished because the experts in that case
 16 conceded that their opinions on ethical standards were based on their subjective views. Opp'n at 48
 17 n.39. But she conveniently ignores the rest of the court's holding:

18 Even assuming that the ethics testimony *were* based on a reliable foundation, it would
 19 not assist the fact-finder in determining any factual dispute in this case. The principal
 20 issues here are whether the defendants breached their legal duties to the plaintiffs in the
 21 manufacturing, labeling and marketing of Rezulin and, if so, whether any such breaches
 22 were proximate causes of injury. While the defendants may be liable in the court of
 23 public opinion, or before a divine authority for any ethical lapses, expert opinion as to
 24 the ethical character of their actions simply is *not* relevant to these lawsuits.

25 *In re Rezulin Prods. Liab. Litig.*, 309 F. Supp. 2d 531, 544 (S.D.N.Y. 2004) (emphasis added). That
 26 holding is directly on point.

27 Plaintiff also points to testimony from an Uber witness that truthfulness in marketing is
 28 important to Uber, *see* Opp'n at 48, and argues that "the same principles Dr. Chandler distil[s] from
 29 the industry [ethical] standards *do* govern Uber's marketing," *id.* But general statements about
 30 truthfulness in marketing obviously do not serve to bind Uber to anything. Nor does it make sense to

1 argue, as Plaintiff does, *id.* at 49, that if Uber relies on its Safety Reports in its defense, that opens the
 2 door to expert testimony on ethics. “[A] party’s … ethics are not appropriate subjects of expert
 3 testimony because opinions on these matters will not assist the jury.” *Sanchez*, 2014 WL 4851989, at
 4 *4.

5 **Finally**, Plaintiff concedes that Dr. Chandler cannot testify as to Uber’s knowledge or state of
 6 mind. *See* Opp’n at 49 (arguing that Dr. Chandler “does not offer opinions on the company’s state of
 7 mind or intent” (citing Chandler Dep. 191:10-17)); *Sanchez*, 2014 WL 4851989, at *4 (“a party’s
 8 knowledge, state of mind, or other matters related to corporate conduct and ethics are not appropriate
 9 subjects of expert testimony because opinions on these matters will not assist the jury”). This, too,
 10 requires exclusion of his opinions.

11 **B. Dr. Chandler’s Safety Report “Estimates” Are Fundamentally Flawed.**

12 Plaintiff’s opposition confirms that Dr. Chandler’s “estimates” should be excluded.

13 **First**, Dr. Chandler’s *estimates* of sexual assault and sexual misconduct incidents are irrelevant
 14 and unreliable because Uber has produced data showing the *actual* number of incidents. In his report,
 15 Dr. Chandler represents that “Uber’s published Safety Reports provide partial counts of sexual assault
 16 and misconduct incidents,” contending that the Safety Reports disclose only about “3.2% of all
 17 reported incidents.” Chandler Rep. at 91 & n.192 (Dkt. 4470-9, Ex. D). Dr. Chandler thus built a model
 18 that purported to “estimate the true incident rate on its platform.” *Id.* at 91.

19 Dr. Chandler’s estimates are irrelevant because Uber has since produced the data pertaining to
 20 sexual assault incident reports, also known as the Flack Data. *See* Dkt. 4341, Mot. at 8 & nn. 5 & 8.
 21 Plaintiff does not dispute that the Flack Data is reliable. To the contrary, Plaintiff compares Dr.
 22 Chandler’s estimates to the Flack Data, and excuses disparities between Dr. Chandler’s estimates and
 23 the Flack Data by arguing that “no statistical model is a perfect fit” and that Dr. Chandler’s bad
 24 estimates “do[] not show unreliability.” Opp’n at 50-51. But Plaintiff fails to explain how Dr.
 25 Chandler’s estimates have any relevance given the existence of the Flack Data.

26 **Second**, Plaintiff confirms that Dr. Chandler’s efforts to “estimate” under-reporting are not
 27 peer-reviewed and have never been validated as reliable. Plaintiff admits that Dr. Chandler relied on

1 a technique published in a 2024 academic article that attempted to estimate under-reporting of sexual
 2 assault on college campus—and then “modified” nearly everything about that nascent technique.
 3 Opp’n at 51-53. Plaintiff also admits that Dr. Chandler uses different covariates, different data, and
 4 even a different distribution. *See id.* In other words, Dr. Chandler invented a completely new under-
 5 reporting model that has not been validated as reliable by anyone other than himself. If the Court were
 6 to “tak[e] [Dr. Chandler’s] word” that his model is valid, it would effectively “abandon[] its
 7 gatekeeping responsibility.” *In re Valsartan*, 2025 U.S. Dist. LEXIS 221602, at *2.

8 **C. Dr. Chandler’s Testimony Regarding Uber’s Communications With Plaintiff Is
 9 Unreliable.**

10 Plaintiff acknowledges that Dr. Chandler purported to “analyze[] the . . . content of
 11 [Uber] messages” to Plaintiff that he did not even possess. Opp’n at 53-54. Instead, Plaintiff blames
 12 this lapse on her contention that “Uber failed to produce th[is] content.” *Id.* Even if true, that does not
 13 make Dr. Chandler’s “analysis” reliable. Without that content, any opinions Dr. Chandler formed
 14 about those communications are inherently speculative, and are therefore unreliable. *See Stephens v.*
15 Union Pac. R.R. Co., 935 F.3d 852, 856 (9th Cir. 2019) (an “expert’s opinion must rest on facts or
 16 data . . . not merely assumptions and speculation”) (internal quotations and citation omitted).

17 The same is true with respect to Dr. Chandler’s opinion that Uber’s messages “reached
 18 Plaintiffs in high volume and at high frequency.” Chandler Rep. at 111 (Dkt. 4470-9, Ex. D). Plaintiff
 19 does not dispute that Dr. Chandler has no idea whether any particular Plaintiff actually saw any of
 20 these messages. Opp’n at 54. Instead, she argues that, based on the volume of push notifications,
 21 emails, and the like, “Uber cannot seriously maintain that this barrage of messaging did not reach
 22 Dean.” *Id.* But consumers ignore such messages all the time. Dr. Chandler could have *asked* Plaintiffs
 23 whether they actually saw this messaging. He did not. Accordingly, his opinions about the “reach” of
 24 that messaging are nothing more than speculation, and should be excluded.

25 **D. Plaintiff’s Opposition Highlights The Unreliability Of Dr. Chandler’s Opinions.**

26 Plaintiff “concede[s]” that Dr. Chandler’s rebuttal report made a significant error—“switching
 27 Uber and Lyft”—but argues that Dr. Chandler’s opinions are otherwise sound. *Id.* at 55-56. In so
 28 arguing, Plaintiff only highlights another obvious error Dr. Chandler made. Plaintiff argues that Dr.

1 Chandler “discusses how Dr. Stodden ignored” a survey that supposedly showed “that the proportion
 2 of respondents reporting a sexual advance or inappropriate touching was 3%—much higher than the
 3 numbers Dr. Stodden used.” *Id.* at 55. But as Uber explained in its Opposition To Plaintiff’s Motion
 4 To Exclude Expert Testimony, this proposition misreads the survey data in two fundamental ways: (1)
 5 the survey at issue did not ask all respondents whether a driver had made a sexual advance or engaged
 6 in inappropriate conduct; rather, it posed that question only to the subset of respondents who reported
 7 that they had encountered an experience with ridesharing that made them feel unsafe, and (2) the 3%
 8 figure includes respondents who used non-Uber ridesharing platforms in addition to or instead of Uber.
 9 See Dkt. 4632 at 12-13 (Defs.’ Opp’n). Accounting for Dr. Chandler’s errors, the “3%” rate Dr.
 10 Chandler advances is *really* 0.21%. Dr. Chandler’s demonstrably sloppy analysis underscores why his
 11 rebuttal opinions should be excluded.

12 **VII. MR. TREMBLAY’S OPINIONS SHOULD BE EXCLUDED.**

13 As Uber explained in its opening brief, Mr. Tremblay’s law enforcement background does not
 14 qualify him to provide the corporate conduct opinions he proffers in this case. Nor are his opinions
 15 based on a reliable methodology or helpful to the jury. Plaintiff’s arguments in response all lack merit.

16 **A. Mr. Tremblay Is Not Qualified to Offer Corporate Conduct Opinions.**

17 Mr. Tremblay’s primary experience is as a law enforcement officer, and in his C.V. and his
 18 report, he emphasizes his 30 years of law enforcement experience. Tremblay Rep., Ex. A at 1 (Dkt.
 19 4470-21, Ex. J) (“distinguished thirty-year career in policing service”); Tremblay Rep. ¶ 9 (“I served
 20 thirty years as a law enforcement officer....”). As Uber explained in its opening brief, this law
 21 enforcement background does not qualify Mr. Tremblay to provide his expansive corporate conduct
 22 opinions, which touch on almost every aspect of Plaintiff’s case. Mot. at 2-3 (Dkt. 4349).

23 Plaintiff argues in response that Mr. Tremblay is qualified because he is ““frequently hired to
 24 consult and train as an expert on sexual assault in the private sector’ and for various public entities....”
 25 Opp’n at 58. But Mr. Tremblay’s C.V. shows that very few of his engagements were with private
 26 sector entities; instead, almost all of his training and consultation engagements were with police
 27 departments, other government entities, and at conferences. Tremblay Rep., Ex. A at 6-37. Moreover,

1 as the “Consultation and Training” headings suggest, most of these engagements involve training. *Id.*;
 2 *see also* Opp’n at 57 (Tremblay’s career has “specifically include[d] the ‘development and delivery’
 3 of the training around sexual assault prevention, response, awareness and education within
 4 professional settings”). Leaving aside whether Mr. Tremblay’s law enforcement background, along
 5 with this additional consulting and training experience, might qualify Mr. Tremblay to opine on topics
 6 such as the sufficiency of Uber’s sexual assault training or its investigative procedures following an
 7 incident,¹⁷ they provide no basis for his exceedingly broad opinions on issues such as what steps Uber
 8 should have taken to reduce the risk of sexual assault, Uber’s development and consideration of
 9 particular initiatives like S-RAD, dashcams, or women-matching, or Uber’s supposed failures in
 10 warning its users of risks.

11 Plaintiff also argues that Uber mischaracterizes Mr. Tremblay’s opinions as involving
 12 “corporate conduct” rather than “sexual assault prevention.” Opp’n at 59. But it is actually Plaintiff
 13 who attempts to recharacterize her expert’s opinions. The alleged “prevention” opinions here all
 14 revolve around corporate conduct. As Plaintiff concedes, Mr. Tremblay’s methodology in this case
 15 was to “review documents and depositions,” *id.* at 61, and then opine on what he found in those
 16 documents and depositions about Uber’s conduct. Mr. Tremblay’s opinion is thus about corporate
 17 conduct, a topic on which Mr. Tremblay has no particular expertise, either as to Uber or the private
 18 sector more generally.

19 In any event, even if Plaintiff’s characterization were accepted, Mr. Tremblay also has very
 20 little experience with “sexual assault prevention in the private sector,” Opp’n at 59, as discussed above.
 21 For this reason, too, Plaintiff’s qualification argument fails.

22 Plaintiff attempts to distinguish *Alves v. Riverside Cnty.*, No. EDCV192083JGBSHKX, 2023
 23 WL 2983583 (C.D. Cal. Mar. 13, 2023), but the case is directly on point. In *Alves*, the court excluded
 24 a law enforcement expert’s opinions on behavioral science, explaining that the expert’s “long career

25
 26 ¹⁷ For example, in *Unknown Party v. Ariz. Bd. of Regents*, No. CV-18-01623-PHX-DWL, 2022 WL
 27 4481519, at *10 (D. Ariz. Sept. 27, 2022) (cited in Opp’n at 62), the court permitted a former
 prosecutor to testify as to “basic investigative standards” in the context of a Title IX investigation,
 although not as to any Title IX-specific opinions.

in law enforcement might qualify him as an expert in some subjects, *but not in the subjects for which he is offered here*, namely disciplines of behavioral science.” *Id.* at *8 (emphasis added). Similarly, here, while Mr. Tremblay may be qualified to opine on some topics related to law enforcement and training, neither his law enforcement career nor his follow-up work as a consultant and trainer (almost entirely outside of the private sector) qualify him to opine about Uber’s corporate conduct as it relates to the initiatives it did or did not pursue in the rideshare sector.

B. Plaintiff Has Not Established That Mr. Tremblay's Law Enforcement-Derived Methodology Can Be Reliably Applied To Uber's Corporate Conduct.

Plaintiff criticizes Uber for characterizing (or, in her words, “derid[ing]”) Mr. Tremblay’s methodology as “one ‘used in policing,’” Opp’n at 61 (citing Mot. at 4), but then acknowledges Mr. Tremblay’s testimony “that he applied the ‘same methodology’ both in this ‘thirty years of experience in the field of law enforcement’ and ‘in the related field of criminal justice.’” *Id.* at 62. Whether Mr. Tremblay’s field is described as policing (as Mr. Tremblay himself called it during his deposition, Tremblay Dep. 189:3 (Dkt. 4349-1, Ex. 2)) or by using the terms “law enforcement” or “criminal justice,” Uber’s basic point stands: Mr. Tremblay did not explain how either a “law enforcement” or a “criminal justice” methodology can or should be extended to the corporate conduct issues in this case. *See* Mot. at 3-4.

Contrary to Plaintiff’s argument that Mr. Tremblay’s methodology was sufficiently reliable because he supposedly “detailed the specific documents he considered, the standards he was comparing them to, and why Uber failed to meet those standards,” Opp’n at 63, Mr. Tremblay did not explain why those “law enforcement” or “criminal justice” standards could or should be applied to evaluating corporate conduct in the rideshare industry—i.e., why Uber’s conduct should be viewed through a criminal justice lens in this civil litigation. *See also* Fed. R. Evid. 702, 2000 Advisory Committee Notes (expert should explain “how that experience leads to the conclusion reached, why that experience is a sufficient basis for the opinion, and how that experience is reliably applied to the facts”). Although Mr. Tremblay explained the basics of ***what he did***—reviewed documents and reached opinions based on them—he did not explain ***why that was a reliable and sufficient methodology based on his law enforcement experience***. Plaintiff asserts that “assault prevention is

1 assault prevention,” Opp’n at 61, but this conclusory statement cannot take the place of an actual
 2 reasoned explanation from Mr. Tremblay.

3 Reviewing documents and reaching opinions based on them may be sufficient if the expert’s
 4 experience is directly related to the subject matter of the opinions, as in the *Qualcomm* case that
 5 Plaintiff cites. *Federal Trade Commission v. Qualcomm Inc.*, No. 17-CV-00220-LHK, 2018 WL
 6 6460573, at *4 (N.D. Cal. Dec. 10, 2018) (expert “used his experience as a patent license negotiator
 7 to opine on topics *relating to that very subject area*”) (emphasis added). But here, where Mr.
 8 Tremblay’s law enforcement background is remote from the corporate conduct issues on which he
 9 wishes to opine, he needed to explain why his method was sufficient and appropriate under Rule 702.
 10 For this reason, too, his corporate conduct opinions should be excluded.

11 **C. Mr. Tremblay Offers Impermissible Opinions Concerning Uber’s Knowledge
 12 And Improperly Summarizes Company Documents.**

13 In its opening brief, Uber argued that under well-established caselaw, Mr. Tremblay should
 14 not be permitted to testify concerning Uber’s knowledge or to summarize Uber documents. Mot. at 4-
 15 6. Plaintiff argues, as she does with respect to her other experts, that “experts are permitted to discuss
 16 the bases for their opinions.” Opp’n at 64. But Mr. Tremblay’s opinions concerning Uber’s knowledge
 17 and his regurgitation of the contents of Uber’s documents go well beyond “discussing the bases for
 18 [his] opinions.” Accordingly, these opinions should be excluded.

19 **D. Mr. Tremblay’s Opinions on Ultimate Legal Issues Should Be Excluded.**

20 Plaintiff cannot dispute that Mr. Tremblay’s opinion that Uber’s actions “were more likely
 21 than not a substantial factor in causing” her assault purports to answer one of the ultimate legal
 22 questions in this case. Mot. at 6. It is improper to usurp the jury’s function in this manner.

23 Plaintiff’s caselaw, which involves medical causation, is not to the contrary. *See Messick v.*
 24 *Novartis Pharms. Corp.*, 747 F.3d 1193, 1195 (9th Cir. 2014) (expert testimony that plaintiff’s
 25 bisphosphonate use was a substantial factor in causing her medical condition); *In re Roundup Prods.*
 26 *Liab. Litig.*, 358 F. Supp. 3d 956, 960 (N.D. Cal. 2019) (expert testimony that glyphosate was a
 27 substantial factor in causing plaintiffs’ medical condition) (both cited in Opp’n at 66). This is because
 28 “expert testimony is necessary to prove medical causation, which is that the accident caused the

1 injury.” *E.g., Johnson v. Costco Wholesale Corp.*, No. CV-17-02710-PHX-SMB, 2021 WL 461937,
 2 at *3 (D. Ariz. Feb. 9, 2021) (citation omitted); *see also In re Incretin-Based Therapies Prods. Liab.*
 3 *Litig.*, 524 F. Supp. 3d 1007, 1033 (S.D. Cal. 2021) (“here, as in other complex pharmaceutical
 4 products liability cases, general causation requires expert evidence because the existence of a causal
 5 relationship between a substance and the particular harm alleged is outside the common knowledge of
 6 lay jurors”), *aff’d*, No. 21-55342, 2022 WL 898595 (9th Cir. Mar. 28, 2022) (citation omitted). Here,
 7 Mr. Tremblay seeks to testify about legal causation, not medical causation. Mr. Tremblay should not
 8 be permitted to usurp the jury’s role by opining on the ultimate legal issue of whether Uber’s actions
 9 “were more likely than not a substantial factor” in causing Ms. Dean’s assault.

10 **VIII. THE COURT SHOULD EXCLUDE MR. WEINER’S OPINIONS.**

11 As Uber explained in its opening brief, ECF 4345, Mr. Weiner’s opinions should be excluded
 12 for several reasons. His supposed expertise in technology and product development does not qualify
 13 him to offer his wide-ranging opinions concerning Uber’s approach to safety. His unreliable and
 14 subjective methodology is based on his work experience (primarily in the banking technology
 15 industry), which he extends to the rideshare industry without explanation as to why such extension is
 16 justified. And much of his report simply summarizes Uber documents, which does not constitute
 17 proper expert testimony. Plaintiff’s arguments in response are meritless.

18 **A. Mr. Weiner Is Not Qualified.**

19 Plaintiff contends that Uber mischaracterized Mr. Weiner’s background and opinions when it
 20 argued that he is “an information technologist who is not qualified to opine as to ‘safety’ or ‘corporate
 21 priorities’ on safety.” Opp’n at 33 (citing Mot. at 3). But Plaintiff fundamentally mischaracterizes both
 22 Mr. Weiner’s opinions and background.

23 *First*, Plaintiff insists that Mr. Weiner is “not testifying as an expert in ‘sexual assault or
 24 misconduct’” and is not offering “generalized ‘safety risk’ opinions.” *Id.* at 34. But this unduly narrow
 25 framing of Mr. Weiner’s proposed testimony is belied by Plaintiff’s own characterization of Mr.
 26 Weiner’s opinions earlier in her brief where she expressly states that Mr. Weiner seeks to opine that
 27 “[s]exual violence between drivers and riders was a foreseeable risk from Uber’s inception”; that Uber

1 “prioritized growth . . . over . . . **safety**”; and that Uber did not adequately “evaluate[] **safety** features .
 2” *Id.* at 32 (citations omitted) (emphases added); *see also* Weiner Rep. ¶ 22 (Dkt. 4470-3, Ex. A)
 3 (Mr. Weiner was “asked” by Plaintiff’s counsel to address “how safety-related objectives—such as
 4 the prevention of Sexual Assault and Sexual Misconduct—were considered, prioritized, and
 5 implemented within that [product development] framework”) (footnotes omitted). Thus, contrary to
 6 Plaintiff’s conclusory claims on page 34 of her brief, her descriptions on page 32 and Mr. Weiner’s
 7 own words establish that Mr. Weiner is clearly seeking to wade into the area of rideshare safety.

8 **Second**, Plaintiff claims that Mr. Weiner has “played an integral role in advising companies
 9 on the development of consumer-facing software, including mobile applications....” Opp’n at 33. But
 10 virtually none of that work involved the sorts of physical safety-related risks at issue here. Mr.
 11 Weiner’s full-time job since 2012 (when the rideshare industry existed in only nascent form) has been
 12 working for the Federal Reserve Bank of New York, where he has focused on “monetary policy
 13 implementation technology [and] consumer banking technology.” Weiner Dep. 24:12-17 (Dkt. 4470-
 14 5, Ex. B). Notably, Mr. Weiner was only able to identify two work engagements that were “specific
 15 instances where I have had the personal experience of working on what you and I now agree to call
 16 physical safety.” *Id.* 119:5-8. He further testified that he “highlighted [these] particular examples for
 17 the judge in this case where my experience was most like the safety risk that we were looking at in
 18 this particular case.” *Id.* 180:5-15. That Mr. Weiner purposefully identified those examples shows that
 19 he himself believed that safety-related expertise is necessary here. And his testimony that he has “not
 20 used the word safety even once” in describing his credentials, *id.* 121:10-13, is tantamount to a
 21 **disclaimer** of any expertise in that area and necessarily trumps Plaintiff’s reimagined characterizations
 22 of Mr. Weiner’s background.

23 In short, the gist of Plaintiff’s arguments is that “Product Development” is a single,
 24 undifferentiated field—no matter what product or what risks or other considerations are involved—
 25 and that Mr. Weiner’s banking industry and earlier experience thus transfers to analyzing physical
 26 safety risks in the rideshare industry. This argument misunderstands Rule 702’s qualifications
 27 requirement and should be rejected. *See Martinez v. Coloplast Corp.*, No. 2:18-CV-220, 2022 WL

1 425206, at *3 (N.D. Ind. Feb. 11, 2022) (excluding expert despite her “impressive credentials and
 2 decades of experience in product development” because her experience was in pharmaceutical
 3 products rather than medical device products).¹⁸

4 **B. Mr. Weiner’s Method Is Not Reliable.**

5 As explained in Uber’s opening brief, Mr. Weiner’s purported application of his “experience”
 6 to his review of Uber’s internal company documents does not constitute any discernible, much less a
 7 reliable, methodology. Mot. at 5-9. While Plaintiff accuses Uber of taking Mr. Weiner’s reliance on
 8 his experience “out of context,” Opp’n at 37, Mr. Weiner *repeatedly* referenced his “37 years of
 9 experience,” including in the first paragraph of his report. Weiner Rep. ¶ 1. Indeed, when Mr. Weiner
 10 was asked how another expert would repeat his work, his response depended on that expert having the
 11 exact same experience as he did: ““I would hand that new expert the same questions that I was asked,
 12 make available to them my 37 years of experience and learnings over that time period, and ask them
 13 to put themselves in front of the Everlaw system with two million records, and review the process of
 14 answering those questions using this methodology to see if they came to the same conclusion as what
 15 I posited.”” Weiner Dep. 315:15-316:18. Just as Plaintiff’s counsel cannot salvage Mr. Weiner’s
 16 qualifications to serve as an expert in this case, she likewise cannot plug the holes in his deficient
 17 methodology by rewriting Mr. Weiner’s report and testimony. *See In re Rezulin Prods. Liab. Litig.*,
 18 369 F. Supp. 2d 398, 407 (S.D.N.Y. 2005) (“The subject of [a Rule 702] motion is the proposed
 19 testimony of experts, not the theories of the lawyers.”); *see also Tamraz v. Lincoln Elec. Co.*, 620 F.3d
 20 665, 673 (7th Cir. 2010) (expert’s “opinion cannot escape its own logic”).

21 Plaintiff also concedes that Mr. Weiner’s purported “experience”-based “methodology” is not
 22 testable, but claims that is not fatal under Rule 702 because testability is just one factor under *Daubert*.
 23 Opp’n at 39. However, one of Plaintiff’s cited cases did not even involve a challenge based on

24
 18 Plaintiff contends that *Martinez* is distinguishable because the products at issue there (i.e., medical
 25 devices) were governed by “different regulatory standards” than the ones the expert had experience
 26 with (i.e., pharmaceutical drugs). Opp’n at 35 n.24. This proffered distinction is self-defeating because
 27 not even Plaintiff claims that Mr. Weiner has any experience with the rideshare industry. Moreover,
 as already discussed in text, Mr. Weiner has disclaimed having any specialized knowledge or
 experience with respect to product safety, further highlighting why he is even less competent to serve
 as an expert in this case than the expert in *Martinez*.

1 testability and is inapposite. *See Walker v. AIU Ins. Co.*, No. CV-23-01641-PHX-JAT, 2025 WL
 2 2495066, at *14 (D. Ariz. Aug. 29, 2025) (“[T]he mere fact that Mr. Beringer did not review the same
 3 materials as Plaintiffs’ claims handling expert does not render him unreliable and mandate
 4 preclusion.”) (citation omitted). And in the other case, the court found that the challenged opinions
 5 “**are** testable because they can be independently verified or objectively challenged.” *In re ConAgra*
 6 *Foods, Inc.*, 302 F.R.D. 537, 554 (C.D. Cal. 2014) (emphasis added). Moreover, Plaintiff ignores that
 7 Mr. Weiner expressly states that his ““methodology is designed to be testable and repeatable.”” Mot.
 8 at 8 (citing Weiner Rep. ¶ 44). Plaintiff’s concession that his methodology is not repeatable invalidates
 9 the very premise of Mr. Weiner’s proffered methodology and highlights the results-oriented nature of
 10 Mr. Weiner’s proposed testimony.

11 Uber also addressed Mr. Weiner’s unsuccessful attempts to embellish his opinions with
 12 scientific language¹⁹ and references to industry standards. Mot. at 6-8. As Uber explained, Mr.
 13 Weiner’s use of such standards was largely not based on objective criteria. *Id.* at 7-8. And to the extent
 14 he attempted to invoke the objective standards of the International Organization for Standardization
 15 (“ISO”), those references likewise do not provide a basis for his opinions, which address “Uber’s
 16 development and **prioritization** of safety-related features.” Weiner Rep. ¶ 40 (emphasis added).
 17 Plaintiff concedes that “ISO standards do not prescribe the **specific objectives** a company should set,”
 18 Opp’n at 38 (emphasis added), but Mr. Weiner repeatedly opines on **Uber’s priorities**—i.e., its
 19 objectives. *E.g.*, Weiner Rep. at 44 (Opinion 2 – “[Uber] prioritized growth, cost reduction, and
 20 competition over the timely implementation of safety related features...”); *id.* ¶ 116 (“Uber’s own
 21 documents show that its consistent priorities have been growth, cost avoidance, and competitive
 22 pressures.”); *id.* at 62 (Uber’s actions “reflect[ed] a prioritization of marketplace metrics over risk-
 23 based safety governance”); *id.* ¶ 155 (“Uber prioritized financial considerations over sexual assault
 24 prevention”). Thus, Plaintiff’s own characterization of the ISO standards confirms that “[t]here is
 25 simply too great an analytical gap between the data and the opinion proffered.” *Gen. Elec. Co. v.*

26
 27 ¹⁹ Plaintiff argues that Uber took Mr. Weiner’s references to a meta-analysis and peer review out of
 28 context. But it is clear that Mr. Weiner’s use of those terms was intended to put a gloss of scientific
 credibility on his subjective, experience-based opinions. Mot. at 6.

1 *Joiner*, 522 U.S. 136, 146 (1997) (citation and internal quotation marks omitted).

2 Plaintiff's cases—holding that, in some circumstances, experts can review materials and render
 3 opinions based on them—are inapposite. In those cases, unlike here, the expert did not purport to
 4 ground his or her opinions in a methodology that could be replicated. In addition, the expert's
 5 experience was *directly related to his or her opinions*; thus, it is not surprising that those courts found
 6 that the witnesses had explained “how that experience leads to the conclusion reached, why that
 7 experience is a sufficient basis for the opinion, and how that experience is reliably applied to the facts.”
 8 Fed. R. Evid. 702, 2000 Advisory Committee Notes. For example, in *Federal Trade Commission* 2018
 9 WL 6460573, at *4, the court found that the expert “has used his experience as a patent license
 10 negotiator to opine on topics *relating to that very subject area.*” (emphasis added). *See also In re Coll.*
 11 *Athlete NIL Litig.*, No. 20-CV-03919 CW, 2023 WL 8372788, at *3 (N.D. Cal. Nov. 3, 2023) (expert
 12 “relied on his decades of experience in negotiating professional sports media rights to estimate that
 13 about one half of the total value of sports broadcasts is attributable to athletes’ contributions”). Here,
 14 as Uber has explained, not only do Mr. Weiner’s 37 years of experience have nothing to do with safety,
 15 the rideshare industry or any other facts in this case, but Mr. Weiner has also not sufficiently explained
 16 why that irrelevant background provides a reliable basis for his opinions against Uber.

17 **C. Mr. Weiner’s Opinions Should Be Excluded As Impermissible Testimony.**

18 In its opening brief, Uber also moved to exclude Mr. Weiner’s opinions for the additional
 19 reasons that they improperly opine on Uber’s state of mind and/or summarize Uber documents. Mot.
 20 at 9-10. Plaintiff argues, as she does with respect to her other experts, that experts may testify as to
 21 what knowledge was available to a defendant, and discuss the facts and data they considered. Opp’n
 22 at 39-40. But Plaintiff once again mischaracterizes her own expert’s opinions. For example, Mr.
 23 Weiner expressly claims that “Uber’s internal records confirm the company *knew* Sexual Violence
 24 was underreported and that reporting design contributed to this problem[.]” Weiner Rep. ¶ 263
 25 (emphasis added). While Plaintiff’s counsel is entitled to argue that baseless state-of-mind theory to
 26 the jury, Plaintiff may not present it to the jury with the imprimatur of an expert. *King*, 2023 WL
 27 5624710, at *6 (“What DePuy purportedly knew, intended, or was motivated by falls outside the scope

1 of expert testimony. . . . These types of state of mind issues are squarely within the province of the
 2 jury.”) (citation omitted). Nor may Mr. Weiner “merely read, selectively quote from, or regurgitate
 3 the evidence,” as even Plaintiff’s own authority recognizes. *Homyk*, 2025 WL 1547625, at *6 (cited
 4 in Opp’n at 40) (citation omitted). In short, Plaintiff does not seriously attempt to refute Uber’s
 5 argument that Mr. Weiner opines on Uber’s knowledge and intent and regurgitates the contents of
 6 Uber’s documents, all of which goes well beyond the permissible purposes of expert testimony.
 7 Accordingly, his knowledge and narrative opinions should be excluded.

8 **IX. MS. RANDO’S OPINIONS SHOULD BE EXCLUDED.**

9 **A. Ms. Rando Lacks Relevant Experience To Opine On The Usability Of Sexual 10 Assault Reporting Technology In The Rideshare Industry.**

11 Plaintiff fails to identify any relevant experience that qualifies Ms. Rando to opine on Uber’s
 12 in-app reporting systems. Plaintiff does not dispute that Ms. Rando has no experience in the rideshare
 13 industry, has never been involved in designing UI/UX interface of mobile applications, and does not
 14 have any training or experience related to reporting sexual assaults or sexual misconduct. Opp’n at 67-
 15 68. Rather, Plaintiff cites to Ms. Rando’s general experience as a “Human Factors Professional.” *Id.*
 16 at 67. Ms. Rando, however, is not offering an opinion on “human factors” generally. She is offering a
 17 specific opinion on the usability of sexual assault reporting technology in the rideshare industry—an
 18 opinion that Ms. Rando believes requires consideration of users’ “goal[s]” in using the app, Rando
 19 Rep. ¶ 176 (Dkt. 4470-7, Ex. C), and their “mental and emotional states” at the time of an alleged
 20 assault, *id.* ¶ 173.

21 Plaintiff attempts to overcome this disconnect by noting that Ms. Rando has “prior consulting
 22 work” with “consumer-facing platforms,” Opp’n at 67, but she fails to identify **what** prior consulting
 23 work Ms. Rando has done, with which consumer platforms, and **how** this experience relates to the
 24 review of sexual assault reporting mechanisms for a rideshare technology company. Nor can she: at
 25 best, Ms. Rando’s CV and deposition testimony refer to consulting experience in the “medical
 26 software domain space” and in the “aerospace sector under government contracts.” Rando Dep. 24:8-
 27 23 (Dkt. 4397-2, Ex. 2). Her general experience does not qualify her to opine on Uber’s in-app
 28 reporting procedures concerning sexual assaults and sexual misconduct. *Blockchain Innovation, LLC*

1 *v. Franklin Res., Inc.*, No. 21-cv-08787-TSH, 2024 WL5483606, at *9 (N.D. Cal. Oct. 22, 2024)
 2 (“[w]hile a witness ‘can qualify as an expert through practical experience in a particular field,’ it must
 3 be shown that the experience relates to issues in dispute....”).

4 **B. Ms. Rando’s Opinion Is Not Relevant To Any Issue In This Litigation.**

5 Plaintiff also fails to tie Ms. Rando’s opinions to the facts of this case. Neither Ms. Dean nor
 6 any other bellwether Plaintiff was unable to report her alleged incident due to Uber’s in-app reporting
 7 mechanisms, which Plaintiff does not dispute in her Opposition. Opp’n at 70.

8 Plaintiff instead argues that “Uber may not have received more overt reports of sexual
 9 misconduct” for the bellwether drivers because “the company made it exceedingly difficult to report
 10 such misconduct.” *Id.* at 70. But Plaintiff has presented ***no evidence***—and prior to her Opposition, ***no***
 11 ***allegation***—that any rider wanted to but could not report one of the bellwether drivers for sexual
 12 misconduct, and certainly not because of any problem with app design.

13 Plaintiff also argues that Ms. Rando’s testimony is “relevant in a more general sense” because
 14 the “low” rate of sexual assault on Uber’s platform may be a result of “Uber ma[king incidents] hard
 15 to report.” (*Id.* at 70.) But again, Ms. Rando does not argue that Uber’s app design caused
 16 underreporting at all, let alone estimate the app design’s impact on underreporting. Rando Rep. ¶ 5.
 17 At best, Plaintiff argues that Ms. Rando’s opinion is relevant because it responds to arguments raised
 18 by Uber’s experts Vida Thomas (about notice) or Dr. Victoria Stodden (about rates of sexual assault).
 19 Opp’n at 70. But Ms. Rando is an affirmative expert. She did not produce a rebuttal report responding
 20 to either Ms. Thomas or Dr. Stodden; nor has she indicated that she has read either report. As such,
 21 her opinion is not relevant.

22 In short, the alleged inadequacy of Uber’s in-app reporting procedures does not move the
 23 needle on whether Ms. Dean was injured due to Uber’s conduct. As a result, Ms. Rando’s opinions on
 24 such procedures should be excluded, as they have been previously, in similar circumstances. *See*
 25 *Johnson v. Ridge Tool Mfg. Co.*, No. 21 C 1939, 2025 WL 2430567, at *6 (N.D. Ill. Aug. 22, 2025)
 26 (holding that because “Plaintiff did not read the user manual prior to operating the machine . . . any
 27 opinion from Rando related to the user manual is irrelevant and therefore inadmissible”); *see also*

1 *Willard v. City of Everett*, 637 F. App'x 441, 442 (9th Cir. 2016) (upholding exclusion of “human
 2 factors expert” because “[h]er proposed testimony wasn’t relevant”); *Cole v. Keystone RV Co.*, No.
 3 C18-5182RBL, 2020 WL 3969993, at *9 (W.D. Wash. July 14, 2020) (excluding human factors
 4 expert’s opinion “about the risks of formaldehyde exposure” because “there is no evidence of any
 5 formaldehyde exposure in this case”).

6 **C. Ms. Rando Lacks An Appropriate Methodology.**

7 Plaintiff’s Opposition also fails to demonstrate that Ms. Rando applied an appropriate
 8 methodology.

9 **First**, while Ms. Rando purports to speak on behalf of “Uber riders” and their experiences with
 10 Uber’s in-app reporting procedures, Rando Rep. ¶ 83, she conducted no interviews or surveys of any
 11 actual user of the Uber app and possesses no credentials to speculate about what they were thinking.
 12 Instead, she relies almost entirely on internal Uber documents. The flaws in Ms. Rando’s analysis are
 13 not merely an issue, as Plaintiff implies, of dictating a particular method for expert analysis, Opp’n at
 14 72; they are a matter of failing to identify any accepted methodology that allows her to render opinions
 15 about what consumers were thinking.

16 Plaintiff cites Ms. Rando’s own report and deposition testimony as evidence that her analysis
 17 is “widely accepted,” *Id.* at 71, but “[t]his Court cannot do that – essentially taking the expert’s word
 18 for it – without abandoning its gatekeeping responsibility.” *See In re Valsartan*, 2025 U.S. Dist. LEXIS
 19 221602, *2-3. Plaintiff also relies on *In re MyFord Touch Consumer Litig.* and *Fujifilm Corp. v.*
 20 *Motorola Mobility LLC* in support of her position that Ms. Rando’s methodology was appropriate.
 21 Opp’n at 71-72. But in both of those cases, unlike here, the human factors expert **did conduct**
 22 **consumer interviews and surveys**. *See In re MyFord Touch Consumer Litig.*, No. 3:13-cv-03072-
 23 EMC, (ECF 356) Berman Decl., Ex. 19 (expert performed a “driving study with 24 participants that
 24 focused on measuring both subjective and objective measures of driver distraction”); *Fujifilm Corp.*
 25 *v. Motorola Mobility LLC*, No. 12-CV-03587-WHO, 2015 WL 1737951, at *3 (N.D. Cal. Apr. 8,
 26 2015) (expert considered “contemporaneous accounts of consumer behavior and preferences” in
 27 addition to “market data” and “industry reports”). Plaintiff’s self-serving evidence cannot cure the

1 fatal flaws in Ms. Rando's methodology.

2 **Second**, Ms. Rando's opinions are speculative. As explained above, Plaintiff's alleged basis
 3 for offering Ms. Rando is that other riders could have had negative experiences with the bellwether
 4 drivers, who in turn could have been deterred from reporting because of negative app experiences, and
 5 who otherwise could have reported such incidents to Uber, which Uber in turn could have used as a
 6 basis to remove the bellwether drivers from the Uber platform before the bellwether plaintiffs took
 7 their rides. Opp'n at 70. Plaintiff also alleges that Uber's app design could have made it difficult to
 8 report, which could have reduced the reported rates of sexual assault, though she does not (and cannot)
 9 quantify by how much. *Id.* Ms. Rando (and Plaintiff) cannot make such leaps in logic. *See, e.g.*,
 10 *Valentine v. Pioneer Chlor Alkali Co.*, 921 F. Supp. 666, 672 (D. Nev. 1996) (Such "speculation [and]
 11 conjecture [is] inadmissible[.]") (citation omitted); *Plunkett v. Best Buy, Inc.*, 745 F. App'x 725 (9th
 12 Cir. 2018) (upholding exclusion of human factors expert's opinions because they "were based on
 13 speculation").

14 Ms. Rando also makes numerous inferences about "users' mental and emotional states." Rando
 15 Rep. ¶ 169. Plaintiff attempts to justify these opinions on the ground that Ms. Rando considered
 16 "research regarding how trauma affects the cognitive process." Opp'n at 73. But Ms. Rando admittedly
 17 is not an expert in "sexual assault." Rando Dep. 37:1-4; *see also id.* 41:18-42:7, 43:4-10, 44:2-8
 18 (referencing Ms. Rando's lack of publications and experience concerning "sexual assault or sexual
 19 misconduct"). Her general qualifications in the field of "human factors" do not qualify her to opine on
 20 the mental and emotional states of victims of sexual assaults and sexual misconduct, particularly
 21 without the benefit of interviews or surveys. For this reason, too, her opinions should be excluded.

22 DATED: December 23, 2025

Respectfully submitted,

23 /s/ Laura Vartain Horn

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CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

By: /s/ Laura Vartain Horn
Laura Vartain Horn